

**GRANT AGREEMENT
BETWEEN
STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
AND
MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS**

THIS GRANT AGREEMENT (Agreement) is made and entered into by and between the Department of Financial Services (Department), an agency of the state of Florida (State), and Martin County Board of County Commissioners (Grantee), and is effective as of the date last signed. The Department and the Grantee are sometimes referred to herein individually as a “Party” or collectively as the “Parties.”

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, the Department, through its Division of State Fire Marshal (Division), has the authority, pursuant to a specific appropriation of the General Appropriations Act, to grant funds to the Grantee; and

WHEREAS, the Grantee represents that it is fully qualified and eligible to receive these grant funds to perform the tasks identified herein in accordance with the terms and conditions hereinafter set forth.

NOW THEREFORE, the Department and the Grantee do mutually agree as follows:

A. Tasks and Performance Requirements:

In accordance with Line 2485A of the General Appropriations Act for the 2023-2024 State fiscal year, the Grantee shall perform the tasks specified herein in accordance with the terms and conditions of this Agreement, including its attachments and exhibits, which are incorporated by reference herein.

The funds shall be utilized to construct a public safety training tower, and the performance requirements are specifically described in Attachment 1, Scope of Work (herein referred to as the “SOW”).

B. Incorporation of Laws, Rules, Regulations, and Policies:

The Parties shall comply with the applicable state and federal laws, rules, regulations, and policies, including, but not limited to, those identified in this Agreement.

C. Performance Period:

The performance period for this Agreement begins on July 1, 2023, and ends after completion of all deliverables, upon depletion of funding, or upon termination of funding, whichever occurs first, unless terminated earlier in accordance with the terms of this Agreement (Performance Period). No renewals or extensions of the Agreement are permitted.

D. Funding Requirements of Section 215.971(1), Florida Statutes (F.S.):

1. The Grantee may only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Performance Period.
2. The Grantee shall refund to the Department any balance of unobligated funds that was advanced or paid to the Grantee.
3. The Grantee shall refund to the Department all funds received in excess of the amount to which the Grantee or its subrecipients are entitled under the terms and conditions of this Agreement.

E. Agreement Payment and Funding Considerations:

1. Compensation. This is a cost reimbursement agreement. This Agreement shall not exceed \$1,000,000.00 and payment shall only be issued by the Department after acceptance of the Grantee's performance as set forth by the terms and conditions of this Agreement. The State's and the Department's performance and obligation to pay under this Agreement after the State fiscal year referenced in Section A, above, is contingent upon the fixed capital outlay funding remaining available for use by the Grantee for the purpose specified herein.
2. Payment Process. Subject to the terms and conditions established in this Agreement and the billing procedures established by the Department, the Department agrees to pay the Grantee in accordance with section 215.422, F.S. The applicable interest rate can be obtained at: <https://www.myfloridacfo.com/division/aa/vendors>.
3. Grantee Rights. A Vendor Ombudsman has been established within the Department. The duties of this individual include acting as an advocate for grantees who may be experiencing problems in obtaining timely payment(s) from a State agency. The Vendor Ombudsman may be reached at (850) 413-5516.
4. Taxes. The Department is exempted from the payment of State sales and use tax and Federal Excise Tax. Unless otherwise provided by law, the Grantee, however, shall not be exempted from paying State sales and use tax to the appropriate governmental agencies, nor shall the Grantee be exempted from paying its suppliers for any taxes on materials used to fulfill its contractual obligations under this Agreement. The Grantee shall not use the Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement. The Grantee shall provide the Department its taxpayer identification number upon request.
5. Expenditures. All expenditures must be in compliance with the laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the State of Florida Reference Guide for State Expenditures, which can be obtained at: [reference-guide-for-state-expenditures.pdf \(myfloridacfo.com\)](#). The Grantee may not spend funds received under this Agreement for the purposes of lobbying the Florida legislature, the judicial branch, or a State agency.
6. Invoice Detail. Invoices submitted by the Grantee must fulfill all requirements specified in the SOW and include all supporting documentation, when applicable. The Grantee shall also submit invoices in sufficient detail to fulfill all applicable requirements of the State of Florida Reference Guide for State Expenditures. All charges for performance under this Agreement or for reimbursement of expenses authorized by the Department shall be submitted to the Department in sufficient detail for a proper pre-audit and post-audit to be performed.
7. Interim Payments. Payments will be made to the Grantee only after the Department's acceptance of the deliverable(s) per the deliverable payment points identified in the SOW; however, if the Department determines that circumstances warrant, the Department may accept partial performance and make partial payment for the partial performance.
8. Advance Payments. If authorized by sections 215.422(15) or 216.181(16), F.S., and approved in writing by the Department, the Grantee may be provided an advance as part of this Agreement.

9. Final Invoice. The Grantee shall submit its final invoice to the Department no later than sixty (60) days after the Agreement ends or is terminated. If the Grantee fails to do so, the Department may, at its sole discretion, refuse to honor any requests submitted after this time period and may consider the Grantee to have forfeited any and all rights to payment under this Agreement.

F. Governing Laws of the State of Florida:

1. Governing Law. The Grantee agrees that this Agreement is entered into in the state of Florida, and shall be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State. Each Party shall perform its obligations herein in accordance with the terms and conditions of this Agreement. Without limiting the provisions of Section V., Dispute Resolution, the exclusive venue of any legal or equitable action that arises out of or relates to the Agreement shall be in the appropriate State court in Leon County, Florida; in any such action, the Parties waive any right to jury trial.
2. Ethics. The Grantee shall comply with the requirements of sections 11.062 and 216.347, F.S. The Grantee shall not, in connection with this or any other agreement with the State, directly or indirectly:
 - a. offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty; or
 - b. offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee.

For purposes of subsection b. above, "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Department's Inspector General, or other authorized State official, the Grantee shall provide any type of information the Inspector General deems relevant to the Grantee's integrity or responsibility. Such information may include, but shall not be limited to, the Grantee's business or financial records, documents, or files of any type or form that refer to or relate to this Agreement. The Grantee shall retain such records in accordance with the record retention requirements of Part V of Attachment 2, Audit Requirements for Awards of State and Federal Financial Assistance.

3. Advertising. Subject to chapter 119, F.S., the Grantee shall not publicly disseminate any information concerning this Agreement without prior written approval from the Department, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying the Department or the State as a reference, or otherwise linking the Grantee's name and either a description of the Agreement or the name of the Department or the State in any material published, either in print or electronically, to any entity that is not a Party to this Agreement, except potential or actual authorized distributors, dealers, resellers, or service representatives.
4. Sponsorship. As required by section 286.25, F.S., if the Grantee is a nongovernmental organization that sponsors a program that is financed wholly or in part by State funds, including any funds obtained through this Agreement, it shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (Grantee's name) and the State of Florida, Department of Financial Services." If the sponsorship reference is in written material, the words "State of Florida, Department of Financial Services" shall appear in the same size letters or type as the name of the Grantee.
5. Conflict of Interest. This Agreement is subject to chapter 112, F.S. The Grantee shall disclose the name of any officer, director, employee, or other agent who is also an employee of the State. The Grantee shall also disclose the name of any State employee who owns, directly or indirectly, more than a five percent (5%) interest in the Grantee or its affiliates.

6. Records Retention. The Grantee shall retain all records made or received in conjunction with the Agreement for the longer of five (5) years after the end of the Performance Period and all pending matters or the period required by the General Records Schedules maintained by the Florida Department of State (available at: <https://dos.myflorida.com/media/703328/gsl-sl-2020.pdf>). If the Grantee's record retention requirements terminate prior to the requirements stated herein, the Grantee may meet the Department's record retention requirements for this Agreement by transferring its records to the Department at that time, and by destroying duplicate records in accordance with section 501.171, F.S., and, if applicable, section 119.0701, F.S. The Grantee shall adhere to established information destruction standards such as those established by the National Institute of Standards and Technology Special Publication 800-88, "Guidelines for Media Sanitization" (2014). See: <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf>.
7. MyFloridaMarketPlace. Disbursements under this Agreement are disbursements of State financial assistance to a recipient as defined in the Florida Single Audit Act, section 215.97, F.S., and are exempt from the MyFloridaMarketPlace Transaction Fee pursuant to Rule 60A-1.031(6)(g), F.A.C. Payments will be made according to the SOW and not through the MyFloridaMarketPlace system.

G. Return or Recoupment of Funds:

1. If the Grantee or its independent auditor discovers that an overpayment has been made, the Grantee shall return said overpayment within forty (40) calendar days without prior notification from the Department. In the event that the Department first discovers an overpayment has been made, the Department will notify the Grantee in writing. Should repayment not be made in a timely manner, the Department shall be entitled to charge interest at the lawful rate of interest on the outstanding balance beginning forty (40) calendar days after the date of notification or discovery. Refunds should be sent to the Department's Agreement Manager and made payable to the "Department of Financial Services."
2. Notwithstanding the damages limitations of Section X., Limitation of Liability, if the Grantee's non-compliance with any provision of this Agreement results in additional costs or monetary loss to the Department or the State, the Department can recoup the costs or losses from monies owed to the Grantee under this Agreement or any other agreement between the Grantee and any State entity. In the event that the discovery of additional costs or losses arises when no monies are available under this Agreement or any other agreement between the Grantee and any State entity, the Grantee shall repay such costs or losses to the Department in full within thirty (30) days from the date of discovery or notification, unless the Department agrees, in writing, to an alternative timeframe.

H. Audits and Records:

1. Representatives of the Department, including the State's Chief Financial Officer, the State's Auditor General, and representatives of the federal government, shall have access to any of the Grantee's books, documents, papers, and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.
2. The Grantee shall maintain books, records, and documents in accordance with the generally accepted accounting principles to sufficiently and properly reflect all expenditures of funds provided by the Department under this Agreement.
3. The Grantee shall comply with all applicable requirements of section 215.97, F.S., and Attachment 2, Audit Requirements for Awards of State and Federal Financial Assistance. If the Grantee is required to undergo an audit, the Grantee shall disclose all related party transactions to the auditor.

4. The Grantee shall retain all of its records, financial records, supporting documents, statistical records, and any other documents, including electronic storage media, pertinent to this Agreement in accordance with the record retention requirements of Part V of Attachment 2, Audit Requirements for Awards of State and Federal Financial Assistance. The Grantee shall cooperate with the Department to facilitate the duplication and transfer of such records or documents upon the Department's request.
5. The Grantee shall include the aforementioned audit and recordkeeping requirements in all approved subrecipient contracts and assignments.

I. Employment Eligibility Verification: N/A

J. Non-Discrimination:

The Grantee shall not unlawfully discriminate against any individual employed in the performance of this Agreement due to race, religion, color, sex, physical handicap unrelated to such person's ability to engage in this work, national origin, ancestry, or age. The Grantee shall provide a harassment-free workplace, and any allegation of harassment shall be given priority attention and action.

K. Duty of Continuing Disclosure of Legal Proceedings and Instances of Fraud:

1. The Grantee shall provide written notice to the Department disclosing any criminal litigation, investigation, or proceeding that arises during the Performance Period involving the Grantee, or, to the extent the Grantee is aware, any of the Grantee's subrecipients or contractors (or any of the foregoing entities' current officers or directors). The Grantee shall also provide written notice to the Department disclosing any civil litigation, arbitration, or proceeding that arises during the Performance Period, to which the Grantee (or, to the extent the Grantee is aware, any subrecipient or contractor hereunder) is a party, and which:
 - a. might reasonably be expected to adversely affect the viability or financial stability of the Grantee or any subrecipient or contractor hereunder; or
 - b. involves a claim or written allegation of fraud against the Grantee, or any subrecipient or contractor hereunder, by a governmental or public entity arising out of business dealings with governmental or public entities.

All notices under this Section must be provided to the Department within thirty (30) business days following the date that the Grantee first becomes aware of any such litigation, investigation, arbitration, or other proceeding (collectively, a "Proceeding"). Details of settlements that are prevented from disclosure by the terms of the settlement must be annotated as such.

2. This duty of disclosure applies to each officer and director of the Grantee, subrecipients, or contractors when any proceeding relates to the officer's or director's business or financial activities.
3. Instances of Grantee operational fraud or criminal activities, regardless of whether a legal proceeding has been initiated, shall be reported to the Department's Agreement Manager within twenty-four (24) hours of the Grantee being made aware of the incident.
4. The Grantee shall promptly notify the Department's Agreement Manager of any Proceeding relating to or affecting the Grantee's, subrecipient's, or contractor's business. If the existence of such Proceeding causes the State to conclude that the Grantee's ability or willingness to perform the Agreement is jeopardized, the Grantee shall be required to provide the Department's Agreement Manager all reasonable assurances requested by the Department to demonstrate that:
 - a. the Grantee will be able to perform the Agreement in accordance with its terms and conditions; and

- b. the Grantee and/or its employees, agents, subrecipients, or contractor(s) have not and will not engage in conduct in performance under the Agreement that is similar in nature to the conduct alleged in such Proceeding.

L. Assignments, Subgrants, and Contracts:

1. Unless otherwise specified in the SOW or through prior written approval of the Department, the Grantee may not: 1) subgrant any of the funds provided to the Grantee by the Department under this Agreement; 2) contract its duties or responsibilities under this Agreement out to a third party; or 3) assign any of the Grantee's rights or responsibilities hereunder, unless specifically permitted by law to do so. Any such subgrant, contract, or assignment occurring without the prior approval of the Department shall be null and void. In the event the Department approves transfer of the Grantee's obligations, the Grantee remains responsible for all work performed and all expenses incurred in connection with the Agreement. In addition, this Agreement shall bind the successors, assigns, and legal representatives of the Grantee, and of any legal entity that succeeds the Grantee, to the Grantee's obligations to the Department.
2. The Grantee agrees to be responsible for all work performed and all expenses incurred in fulfilling the obligations of this Agreement. If the Department permits the Grantee to contract all or part of the work contemplated under this Agreement, including entering into contracts with vendors for services, it is understood by the Grantee that all such contract arrangements shall be evidenced by a written document containing all provisions necessary to ensure the contractor's compliance with applicable state and federal laws. The Grantee further agrees that the Department shall not be liable to the contractor for any expenses or liabilities incurred under the contract and that the Grantee shall be solely liable to the contractor for all expenses and liabilities incurred under the contract. The Grantee, at its expense, will defend the Department against such claims.
3. The Grantee agrees that the Department may assign or transfer its rights, duties, or obligations under this Agreement to another governmental entity upon giving prior written notice to the Grantee.
4. The Grantee agrees to make payments to any subrecipient or contractor within seven (7) working days after receipt of full or partial payments from the Department, unless otherwise stated in the agreement between the Grantee and the subrecipient or contractor. The Grantee's failure to pay its subrecipients or contractors within seven (7) working days will result in a statutory penalty charged against the Grantee and paid to the subrecipient or contractor in the amount of one-half of one (1) percent of the amount due per day from the expiration date of the period allowed herein for payment. Such statutory penalty shall be in addition to actual payments owed and shall not exceed fifteen (15) percent of the outstanding balance due (see section 287.0585, F.S.).

M. Nonexpendable Property:

1. For the requirements of this Section of the Agreement, "nonexpendable property" is the same as "property" as defined in section 273.02, F.S. (equipment, fixtures, and other tangible personal property of a non-consumable and nonexpendable nature).
2. All nonexpendable property purchased under this Agreement shall be listed on the property records of the Grantee. For the purposes of section 273.03, F.S., the Grantee is the custodian of all nonexpendable property, and shall be primarily responsible for the supervision, control, and disposition of the property in his or her custody (but may delegate its use and immediate control to a person under his or her supervision and may require custody receipts). The Grantee must submit an inventory report to the Department with the final expenditure report and inventory annually and maintain accounting records for all nonexpendable property purchased under the Agreement. The records must include information necessary to identify the property, which, at a minimum, must include the following: property tag identification number; description of the item(s); if a group of

items, the number and description of the components; physical location; name, make, or manufacturer; year and/or model; manufacturer's serial number(s); if an automobile, the vehicle identification number and title certificate number; date of acquisition; cost or value at date of acquisition; date last inventoried; and the current condition of the item.

3. At no time shall the Grantee dispose of nonexpendable property purchased under this Agreement without the written permission of, and in accordance with instructions from, the Department. In addition to its plain meaning, "dispose of" includes selling, exchanging, transferring, distributing, gifting, and loaning. If the Grantee proposes to dispose of the nonexpendable property or take any other action that will impact its ownership of the property or modify the use of the property other than for the purposes stated herein, the Department shall have the right, in its sole discretion, to demand that the Grantee reimburse the Department the fair market value of the impacted nonexpendable property.
4. The Grantee is responsible for any loss, damage, or theft of, and any loss, damage, or injury caused by the use of, nonexpendable property purchased with State funds and held in its possession for use in accordance with this Agreement. The Grantee shall immediately notify the Department, in writing, upon discovery of any property loss with the date and reason(s) for the loss.
5. The Grantee shall be responsible for the correct use of all nonexpendable property obtained using funds provided by this Agreement, and for the implementation of adequate maintenance procedures to keep the nonexpendable property in good operating condition.
6. A formal amendment to this Agreement is required prior to the purchase of any item of nonexpendable property not specifically listed in the approved Agreement budget (see SOW).

N. Requirements Applicable to the Purchase of, or Improvements to, Real Property:

If funding provided under this Agreement is used for the purchase of, or improvements to, real property, such funds are contingent upon the Grantee granting to the Department a security interest in the property in the amount of the funding provided by this Agreement for the purchase of, or improvements to, the real property for five (5) years from the date of purchase, the completion of the improvements, or as further required by law (see section 287.05805, F.S.).

O. Insurance:

The Grantee shall, at its sole expense, maintain insurance coverage of such types and with such terms and limits as may be reasonably associated with the Agreement. Adequate insurance coverage is a material obligation of the Grantee, and the failure to maintain such coverage may void the Agreement. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. All insurance policies shall be through insurers authorized to write policies in the State. Specific insurance requirements, if any, are listed in the SOW.

Upon execution of this Agreement, the Grantee shall provide the Department written verification of the existence and amount for each type of applicable insurance coverage. Within thirty (30) days of the effective date of the Agreement, the Grantee shall furnish the Department proof of applicable insurance coverage by standard ACORD form certificates of insurance. In the event that any applicable coverage is cancelled by the insurer for any reason, the Grantee shall immediately notify the Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within fifteen (15) business days after the cancellation of coverage.

The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee.

P. Intellectual Property Rights:

Where activities supported by this Agreement result in the creation of intellectual property rights, the Grantee shall notify the Department, and the Department will determine whether the Grantee will be required to grant the Department a perpetual, irrevocable, royalty-free, nonexclusive license to use, and to authorize others to use for State government purposes, any resulting patented, copyrighted, or trademarked work products developed under this Agreement. The Department will also determine whether the Grantee will be required to pay all or a portion of any royalties resulting from such patents, copyrights, or trademarks.

Q. Independent Contractor Status:

It is mutually understood and agreed to that at all times during the Grantee's performance of its duties and responsibilities under this Agreement that Grantee is acting and performing as an independent contractor. The Department shall neither have nor exercise any control or direction over the methods by which the Grantee shall perform its work and functions other than as provided herein. Nothing in this Agreement is intended to nor shall be deemed to constitute a partnership or joint venture between the Parties.

1. Unless the Grantee is a State agency, the Grantee (and its officers, agents, employees, subrecipients, contractors, or assignees), in performance of this Agreement, shall act in the capacity of an independent contractor and not as an officer, employee, or agent of the State. Further, unless specifically authorized to do so, the Grantee shall not represent to others that, as the Grantee, it has the authority to bind the Department or the State.
2. Unless the Grantee is a State agency, neither the Grantee nor its officers, agents, employees, subrecipients, contractors, or assignees, are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.
3. The Grantee agrees to take such actions as may be necessary to ensure that each subrecipient or contractor will also be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State.
4. Unless agreed to by the Department in the SOW, the Department will not furnish services of support (e.g., office space, office supplies, telephone service, secretarial, clerical support, etc.) to the Grantee or its subrecipient, contractor, or assignee.
5. The Department shall not be responsible for withholding taxes with respect to the Grantee's compensation hereunder. The Grantee shall have no claim against the Department for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits, or employee benefits of any kind. The Grantee shall ensure that its employees, subrecipients, contractors, and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State.
6. At all times during the Performance Period, the Grantee must comply with the reporting and Reemployment Assistance contribution payment requirements of chapter 443, F.S.

R. Electronic Funds Transfer:

The Grantee agrees to enroll in Electronic Funds Transfer (EFT), offered by the State's Chief Financial Officer, within thirty (30) days of the date the last Party signed this Agreement. Copies of the authorization form and a sample blank enrollment letter can be found at: <http://www.myfloridacfo.com/Division/AA/Vendors/>.

Questions should be directed to the EFT Section at (850) 413-5517. Once enrolled, invoice payments will be made by EFT.

S. Entire Agreement:

The following documents are attached and incorporated into this Agreement, are considered an integral part of the Agreement, and embody the entire Agreement. This Agreement supersedes all previous oral or written communications, representations, or agreements on this subject. If there are any conflicting provisions between the documents that make up the Agreement, the following order of precedence applies:

- a. Attachment 1, Scope of Work;
- b. Pages 1 through 14 of this Agreement;
- c. Attachment 2, Audit Requirements for Awards of State and Federal Financial Assistance (with its Exhibit 1);
- d. Attachment 3, Index of Applicable Laws and Regulations;
- e. Addendum A, Public Records Requirements (all references in this addendum to “Contractor” shall be read to say “Grantee,” and all references to “Contract” shall be read to say “Agreement”);
- f. Appendix 1, Grantee’s Contract with its Contractor for Construction Work, and any appendices incorporated after execution;
- g. Attachment 4, Status Update Request Form; and
- h. Attachment 5, Reimbursement Request Letter.

T. Time is of the Essence:

Time is of the essence regarding the performance requirements set forth in this Agreement. The Grantee is obligated to timely complete the deliverables under this Agreement and comply with all other deadlines necessary to perform the Agreement, which include, but are not limited to, attendance of meetings or submittal of reports.

U. Termination:

1. Termination Due to the Lack of Funds.

If funds become unavailable for the Agreement’s purpose, such event will not constitute a default by the Department or the State. The Department agrees to notify the Grantee in writing at the earliest possible time if funds are no longer available. In the event that any funding identified by the Grantee as funds to be provided for completion of the project as described herein becomes unavailable, including if any State funds upon which this Agreement depends are withdrawn or redirected, the Department may terminate this Agreement by providing written notice to the Grantee. The Department will be the final authority as to the availability of funds.

2. Termination for Cause.

The Department may terminate the Agreement if the Grantee fails to:

- a. satisfactorily complete the deliverables within the time specified in the Agreement;
- b. maintain adequate progress, thus endangering performance of the Agreement;
- c. honor any term of the Agreement; or
- d. abide by any statutory, regulatory, or licensing requirement.

The Grantee shall continue to perform any work not terminated. The Department’s rights and remedies in this clause are in addition to any other rights and remedies provided by law or under the Agreement. The Grantee shall not be entitled to recover any cancellation charges or lost profits.

Upon termination, the Department may require that the Grantee return to the Department any funds that were used for purposes that are considered ineligible under:

- a. this Agreement; or
 - b. applicable program laws, rules, and regulations governing the use of funds under this Agreement.
3. Termination for Convenience.
The Department may terminate this Agreement, in whole or in part, by providing written notice to the Grantee that the Department determined, in its sole discretion, it is in the State's interest to do so. The Grantee shall not furnish any product after it receives the Department's notice of termination, except as necessary to complete the continued portion of the Agreement, if any. The Grantee will not be entitled to recover any cancellation charges or lost profits.
4. Grantee's Responsibilities upon Termination.
If the Department provides a notice of termination to the Grantee, except as otherwise specified by the Department in that notice, the Grantee shall:
- a. Stop work under this Agreement on the date and to the extent specified in the notice.
 - b. Complete performance of such part of the work that has not been terminated by the Department, if any.
 - c. Take such action as may be necessary, or as the Department may specify, to protect and preserve any property which is in the possession and custody of the Grantee, and in which the Department has or may acquire an interest.
 - d. Transfer, assign, and make available to the Department all property and materials belonging to the Department upon the effective date of termination of this Agreement. No extra compensation will be paid to the Grantee for its services in connection with such transfer or assignment.

V. Dispute Resolution:

Unless otherwise stated in the SOW, disputes concerning performance under the Agreement will be decided by the Department, who shall reduce the decision to writing and serve a copy to the Grantee. In the event a Party is dissatisfied with the dispute resolution decision, jurisdiction for any dispute arising under the terms of the Agreement will be in State courts, and the venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the Parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

W. Indemnification:

1. The Grantee shall be fully liable for the actions of its agents, employees, partners, subrecipients, or contractors and shall fully indemnify, defend, and hold harmless the State and the Department, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by the Grantee, its agents, employees, partners, subrecipients, or contractors provided, however, that the Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Department.
2. Further, the Grantee shall fully indemnify, defend, and hold harmless the State and the Department from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right provided, however, that the foregoing obligation shall not apply to the Department's misuse or modification of the Grantee's products or the Department's operation or use of the Grantee's products in a manner not contemplated by the Agreement. If any product

is the subject of an infringement suit, or in the Grantee's opinion is likely to become the subject of such a suit, the Grantee may at its sole expense procure for the Department the right to continue using the product or to modify it to become non-infringing. If the Grantee is not reasonably able to modify or otherwise secure the Department the right to continue using the product, the Grantee shall remove the product and refund the Department the amounts paid in excess of a reasonable rental for past use. The Department will not be liable for any royalties.

3. The Grantee's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or the Department giving the Grantee:
 - a. written notice of any action or threatened action;
 - b. the opportunity to take over and settle or defend any such action at the Grantee's sole expense; and
 - c. assistance in defending the action at the Grantee's sole expense.

The Grantee shall not be liable for any cost, expense, or compromise incurred or made by the State or the Department in any legal action without the Grantee's prior written consent, which shall not be unreasonably withheld.

NOTE: For the avoidance of doubt, if the Grantee is a State agency or subdivision, as defined in section 768.28(2), F.S., pursuant to section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability to the other Party for the other Party's negligence.

X. Limitation of Liability:

Unless otherwise specifically enumerated in this Agreement, no Party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the Agreement requires the Grantee to back-up data or records), even if the Party has been advised that such damages are possible. No Party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and the Department may, in addition to other remedies available to them at law or in equity and upon notice to the Grantee, retain such monies from amounts due the Grantee as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them.

Y. Force Majeure and Notice of Delay from Force Majeure:

Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor caused by the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subrecipients, contractors, or suppliers if no alternate source of supply is available. However, in the event a delay arises from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting damages, costs, delays, or disruptions to the project in accordance with the Party's performance requirements under this Agreement. In the case of any delay the Grantee believes is excusable under this Section, the Grantee shall provide written notice to the Department describing the delay or potential delay and the cause of the delay within: ten (10) calendar days after the cause that creates or will create the delay first arose (if the Grantee could reasonably foresee that a delay could occur as a result); or five (5) calendar days after the date the Grantee first had reason to believe that a delay could result (if the delay is not reasonably foreseeable). **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this Section is a condition precedent to such remedy. The Department, in its sole discretion, will determine if the delay is excusable under this Section and will notify the Grantee of its decision in writing. The Grantee shall not assert a claim for damages, other than for an extension of time, against the Department. The Grantee will

not be entitled to an increase in the Agreement price or payment of any kind from the Department for any reason. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this Section, after the causes have ceased to exist, the Grantee shall resume performance, unless the Department determines, in its sole discretion, that the delay will significantly impair the ability of the Grantee to timely complete its obligations under this Agreement, in which case, the Department may terminate the Agreement in whole or in part.

Z. Mandatory Disclosure Requirements:

1. Conflict of Interest. This Agreement is subject to chapter 112, F.S. The Grantee shall disclose the name of any officer, director, employee, or other agent who is also an employee of the State. The Grantee shall also disclose the name of any State employee who owns, directly or indirectly, more than a five percent (5%) interest in the Grantee or its affiliates.
2. Convicted Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.133(1)(a), F.S., are placed on the convicted vendor list. Pursuant to section 287.133(2)(a), F.S.: “A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.”
3. Discriminatory Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.134(1)(a), F.S., are placed on the discriminatory vendor list. Pursuant to section 287.134(2)(a), F.S.: “An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.”
4. Antitrust Violator Vendor List. The Grantee has a continuous duty to disclose to the Department if the Grantee or any of its affiliates, as defined by section 287.137(1)(a), F.S., are placed on the antitrust violator vendor list. Pursuant to section 287.137(2)(a), F.S.: “A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity.”
5. Department Inspection of Records. Pursuant to section 216.1366, F.S., the Grantee shall permit the Department to inspect the Grantee’s financial records, papers, and documents that are directly related to the performance of the Agreement or the expenditure of state funds and the Contractor’s programmatic records, papers, and documents which the Department determines are necessary to monitor the performance of the Agreement or to ensure that the terms of the Agreement are being met. The Contractor shall provide such records, papers, and documents to the Department’s Contract Manager within 10 business days after a request is made to the Contractor.
6. Foreign Gifts and Contracts. The Grantee shall comply with any applicable disclosure requirements in section 286.101, F.S. Pursuant to section 286.101(7), F.S.: “In addition to any fine assessed under

[section 286.101(7)(a)], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause.”

AA. Severability:

If any provision of this Agreement, in whole or in part, is held to be void or unenforceable by a court of competent jurisdiction, that provision will be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable, and all other provisions remain in full force and effect.

BB. Survival:

Any right or obligation of the Parties in this Agreement which, by its express terms or nature and context, is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

CC. Execution in Counterparts:

This Agreement may be executed in counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

DD. Contact Information for Grantee and Department Contacts:

Grantee’s Payee:

Grantee’s Agreement Manager:

Don G. Donaldson, County Administrator c/o Martin County Board of County Commissioners	Matt Resch, Fire Rescue Administrator
2401 SE Monterey Road	2401 SE Monterey Road
Stuart, FL 34996	Stuart, FL 34996
Telephone: (772) 288-5503	Telephone: (772) 221-2350
Fax: N/A	Fax: N/A
Email: ddonalds@martin.fl.us	Email: mresch@martin.fl.us

Department’s Agreement Manager:

Ginie Chibuzor
200 E. Gaines Street
Tallahassee, FL 32399
Telephone: (850) 413-3631
Fax: N/A
Email: ginie.chibuzor@myfloridacfo.com

In the event that any of the information provided in this Section changes after the execution of this Agreement, the Party making such change shall provide written notice to the other Party of such change. Such changes do not require a formal amendment to the Agreement.

EE. Notices:

The contact information provided in the immediately preceding Section shall be used by the Parties for all communications under this Agreement. Where the terms “written notice” or notice “in writing” are used to specify a notice requirement herein, said notice will be deemed to have been given:

1. when personally delivered;
2. when transmitted via facsimile with confirmation of receipt or email with confirmation of receipt if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid);
3. the day following the day (except if not a business day, then the next business day) on which the same has been delivered prepaid to a recognized overnight delivery service; or
4. on the date actually received or the date of the certification of receipt.

IN WITNESS THEREOF, and in consideration of the mutual covenants set forth above and in the attachments hereto, the Parties have caused to be executed this Agreement by their undersigned duly authorized officials.

Martin County Board of County Commissioners

Florida Department of Financial Services

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

ATTEST:

BOARD OF COUNTY COMMISSIONERS
Martin County, Florida

Carolyn Timmann, Clerk of the Circuit
Court and Comptroller

Harold E. Jenkins II, Chairman

APPROVED AS TO FORM & LEGAL
SUFFICIENCY:

Sarah W. Woods, County Attorney

Attachment 1
SCOPE OF WORK (SOW)

- 1. Project Description.** Line 2485A of the General Appropriations Act for the 2023-2024 State fiscal year provides for the appropriation of \$1,000,000.00 to the Grantee for the construction of, hereinafter referred to as the Project, to serve the needs of the local community.

Funding under this Agreement will be used for the construction of a Public Safety Training Tower. The Training Tower will be located at 2384 SE Liberator Lane, Stuart, FL. Construction must comply with the requirements of the contract the Grantee has entered with its contractor, which is attached hereto and incorporated by reference herein, and will include the construction of three separate buildings: a classroom/equipment storage, a burn building, and a training tower. The project construction costs are estimated at \$1,748,022.00, with \$748,022.00 in local funds from the Grantee.

- 2. Grantee Responsibilities.** The Grantee shall:

- a. Complete all pre-construction elements for the Project, which include, but are not limited to, procurement of vendors, execution of vendor contracts and issuance of purchase orders where applicable.
- b. Submit to the Department, prior to beginning the Project, copies of:
 - i. all ownership documents;
 - ii. all contracts and subcontracts in furtherance of this Agreement; and
 - iii. written evidence that all Project services were competitively procured to the extent required by law.
- c. Complete the Project in accordance with:
 - i. the design and construction plans submitted to the Department;
 - ii. the requirements set forth in this Agreement; and
 - iii. any applicable local, State (including, but not limited to, chapter 255, F.S.), and federal laws and regulations.
- d. Provide the Department with any amendments made to the contracts and subcontracts issued in furtherance of this Agreement. Note: It will be in the Department's sole discretion to determine whether such amendments require a written amendment to this Agreement.
- e. Display signage at the project site that specifies the project intent, fund source, and estimated date of completion. Sign must be in place prior to reimbursement or advancement of funds, should be visible from a public roadway and must remain at project site until project is completed.
- f. Provide the Department with documentation, upon Department's demand, evidencing status reports. Grantee shall provide status report documentation on the Status Update Request Form, incorporated by reference as Attachment 4.

- 3. Department's Responsibilities.**

The Department shall monitor the Grantee's progress as it deems necessary to verify that all requirements of the Agreement are being performed in accordance with this Agreement. The Department shall review submitted documentation and process payments to the Grantee to reimburse allowable, reasonable, and necessary expenditures, not to exceed \$1,000,000.00.

- 4. Deliverable.**

The Grantee shall complete the following deliverable:

Table 1 Deliverable		
Deliverable No. 1 – Construct a Public Safety Training Tower.		
Tasks	Documentation	Financial Consequences
Complete all work in accordance with the contract between the Grantee and the contractor performing the work, which is attached as Appendix 1.	1) Invoice in accordance with Section 6, below. 2) The Grantee shall submit copies of: <ul style="list-style-type: none"> a. Any documents demonstrating satisfactory performance in completion of the tasks listed in the contract which is attached as Appendix 1; b. Proof of release of any liens that are associated with the work for which payment is requested; documentation to support performance by and payments made by contractor to subcontractors and suppliers for satisfaction of contractor's obligations under its contract with the Grantee; and c. Cleared checks, electronic funds transfers, or bank statements showing that payment was issued to the Grantee's contractor. 	Failure to pass each required construction phase inspection will result in non-payment of the associated invoiced task(s) until passage of the construction phase inspection. The Department will not reimburse the Grantee the amount of fees assessed for any re-inspection.
TOTAL REIMBURSABLE AMOUNT NOT TO EXCEED \$1,000,000.00		

5. Reconciliation Report.

Pursuant to section 215.971, F.S., the Department's Agreement Manager must produce a final reconciliation report reconciling all funds paid out to the Grantee under this Agreement against all funds expended by the Grantee in performance of this Agreement. If the Department's Agreement Manager requests documentation from the Grantee's Agreement Manager for this purpose, Grantee must submit

such documentation to the Department within ten (10) business days of receipt of the Department's request.

6. Invoice Submittal and Payment Schedule.

The Grantee shall provide itemized invoices for all portions of the deliverable rendered during that period. After receipt of the invoice, and in accordance with the payment provisions established in Section E., Agreement Payment and Funding Considerations, of the Agreement, the Department shall disburse the amount of funds approved by the Department.

To request reimbursement, the Grantee shall:

- a. Complete the Reimbursement Request Letter, incorporated by reference as Attachment 5, signed by the Grantee's Agreement Manager certifying that the costs being claimed in the invoice package:
 - i. Are specifically for the project represented to the State in the budget appropriation;
 - ii. Have been paid;
 - iii. Were incurred within the Performance Period as specified in Section C, Performance Period, of the Agreement; and
 - iv. Are not a duplicate, and duplicates will not be submitted to another funding source.
- b. All documentation (specified in Section 4, Deliverables) necessary to demonstrate that progress on the project has been made and the work being invoiced has been completed in accordance with the requirements of this Agreement.

The Department may require any other information from the Grantee that the Department deems necessary to verify performance in accordance with this Agreement.

7. Financial Consequences for Failure to Timely and Satisfactorily Perform.

Failure to complete the required duties outlined in the SOW shall result in the rejection of the invoice and as stated above in Section 4, Deliverable, if re-inspection is invoiced, the Department will reduce the invoice by that amount.

This provision for financial consequences shall not affect the Department's right to terminate the Agreement as provided elsewhere in the Agreement.

8. Disposition of Property.

- a. Pursuant to Section M, Nonexpendable Property, of this Agreement, upon satisfactory completion of the requirements of the Agreement, the Grantee is authorized to retain ownership of any nonexpendable property purchased under this Agreement; however, the Grantee hereby grants to the Department a right of first refusal in all such property prior to disposition of any such property during its depreciable life, in accordance with the depreciation schedule in use by the Grantee, but not to exceed five (5) years following the termination of the Agreement. The Grantee shall provide written notice of any such planned disposition and await the Department's response prior to disposing the property. "Disposition" as used herein, includes, but is not limited to, the Grantee no longer using the nonexpendable property for the uses authorized herein; and the sale, exchange, transfer, trade-in, or disposal of any such nonexpendable property. The Department, in its sole discretion, may require the Grantee to refund to the Department the fair market value of the nonexpendable property at the time of disposition rather than taking possession of the nonexpendable property.

- b. Upon satisfactory completion of the requirements of this Agreement, the Grantee is authorized to retain ownership of the real property improved under this Agreement; however, for five (5) years thereafter the Grantee must provide written notice to the Department of any circumstance that:
 - i. will impact or has impacted, in any way, the Grantee's ownership of such property; or
 - ii. will modify or has modified the use of such property from the purposes authorized herein.

Such notice must be provided within ten (10) business days of learning of the event that will result or has resulted in either circumstance. If either of these circumstances arise, the Department will have the right, within its sole discretion, to demand that the Grantee reimburse the Department for part, or all of the funding provided to the Grantee under this Agreement.

9. Failure to Complete Project Timely.

Upon completion of the project, the Grantee shall submit to the Department a copy of the Certificate of Occupancy and photos of the completed project. If the Grantee fails to complete the project within five (5) years after the total maximum amount for Deliverable No. 1 has been paid, the Department will have the right, in its sole discretion, to demand that the Grantee reimburse the Department for part, or all of the funding provided to the Grantee under this Agreement.

- End of Attachment 1 (Scope of Work) -

Appendix 1

Grantee's Contract with its Contractor for Construction Work

This document may be reproduced upon request in an alternative format by contacting the County ADA Coordinator (772) 320-3131, the County Administration Office (772) 288-5400, Florida Relay 711, or by completing our accessibility feedback form at www.martin.fl.us/accessibility-feedback



AGREEMENT BETWEEN COUNTY AND CONTRACTOR FOR VERTICAL CONSTRUCTION

THIS AGREEMENT, effective this 12th day of March in the year, 2024, between:

MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida, (hereinafter COUNTY), located at 2401 S.E. Monterey Road, Stuart, FL 34996

AND the CONTRACTOR: One Call Florida, Inc.
(hereinafter CONTRACTOR) 7804 SW Ellipse Way
Stuart, FL 34997

Project Name: Martin County Fire Rescue Burn Building

Project Number: RFB2024-3569

Total Contract Price: \$1,748,022.00

Substantial Completion Time: 210 calendar days (from issuance of Notice to Proceed)

Liquidated Damages: \$1,685.00 per day after substantial completion

Final Completion Time: Not-to-Exceed 60 calendar days following substantial completion

Liquidated Damages: \$1,685.00 per day after final completion

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Exhibit A:	Contractor's Bid Form

ARTICLE 1 DEFINITIONS

1.1 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Actual Costs.*

- a. costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- b. cost of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- c. rental cost of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- d. costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work;
- e. additional cost of field supervision and field office personnel directly attributable to the charge, exclusive of the cost of estimating, contract administration, and purchasing.

2. *Addenda.* Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the Contract Documents.

3. *Agreement.* The written instrument which is evidence of the agreement between COUNTY and CONTRACTOR covering the Work. Also referred to as "Contract".

4. *Bonds.* Performance bond and payment bond and other instruments of security, furnished by the CONTRACTOR and its surety in accordance with the Contract Documents and in accordance with the law of Florida.

5. *Change Order.* A written document which is signed by CONTRACTOR and COUNTY and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

6. *Claim.* Any action, change order, demand, invoice, lawsuit, request, or statement, for money, property, or services made to any agent, employee, or officer of the county. Claim does not include tort claims as that term is used in Section 768.28(5) Florida Statutes as amended from time to time.

7. *Contract Documents.* The Contract Documents establish the rights and obligations of the parties and include the following: Agreement (including Exhibits), entire bid package including Advertisement, all Addenda and Instructions to Bidders, CONTRACTOR'S completed Bid Form package, Notice of Award, Notice to Proceed, drawings, specifications, plans, data, studies, surveys, calculations, permit applications, estimates, photographs, reports, approved submittals, and other documents prepared by, through, or under CONTRACTOR that fix, depict or describe the size, quality and character of the Project, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and Design Professional's written interpretations and clarifications issued

on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents.

8. *Contract Price.* The moneys paid to CONTRACTOR under Contract Documents, including the Design Fee and Construction Price.
9. *Contract Time.* The number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by Design Professional's written recommendation of final payment.
10. *CONTRACTOR.* The individual or entity with whom COUNTY has entered into the Agreement. In Design/Build Projects, the term "CONTRACTOR" is synonymous with "DESIGN-BUILDER".
11. *Day* means a calendar day unless noted otherwise.
12. *Design Professional* means collectively, the County's authorized agent, including but not limited to architects, engineers, consultants and professionals of record (duly licensed in the State of Florida) that perform services related to the design of any Work at the Project or portions thereof, or otherwise involved on the Project to review and test performance of various Project elements or confirm compliance thereof with any Plan Documents, or otherwise to provide recommendations or advice relating to the design of any portion of the Project.
13. *Drawings.* That part of the Contract Documents prepared or approved by a Design Professional that graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.
14. *Effective Date of the Agreement.* The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
15. *Field Order.* A written order issued by COUNTY or its authorized agent, including but not limited to any Design Professional, which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
16. *Final Completion or Final Acceptance.* The completion of all Work called for under the Contract Documents, including, but not limited to, satisfactory operation of all equipment (other than COUNTY supplied equipment or facilities or those installed by separate CONTRACTORS); correction of all punch list items to the satisfaction of COUNTY, payment of all trade CONTRACTORS, subcontractors, and materialmen; settlement of all claims, if any; payment and release of all mechanic's, materialmen's, and similar liens; delivery of all guarantees, equipment operation and maintenance manuals, as-built drawings, certificate of occupancy, and all other required approvals and acceptances by any municipality within Martin County, Martin County itself, the State of Florida or other authorities or agencies having jurisdiction; and removal of all rubbish, tools, scaffolding, and surplus materials and equipment from the Work site.
17. *Notice to Proceed.* A written notice given by COUNTY to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.

18. *Public Record.* Means “ all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by [COUNTY],” Section 119.011(12) Fla. Stat. (2020), including but not limited to the transaction of official business between COUNTY and CONTRACTOR. .

19. *Samples.* Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

20. *Shop Drawings.* All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

21. *Specifications.* That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

22. *Substantial Completion.* The stage in construction when the Work can be utilized for the purposes for which it was intended, as well as the satisfaction of the following requirements: (1) the items that affect operational integrity and function of the Project must be capable of continuous use; (2) all permits and other regulatory requirements must be satisfied; and (3) a Certificate of Occupancy must be issued where one is required. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

23. *Surety.* The corporate body that is responsible for the CONTRACTOR in connection with the Work as set forth in the Bonds and that is included in the most recent United States Department of the Treasury List of Acceptable Sureties and authorized to issue surety bonds in Florida, and which maintains a surety rating of “A-” or better or equivalent rating by a nationally recognized rating agency.

24. *Underground Facilities.* All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

25. *Unit Price Work.* Work to be paid for on the basis of unit prices.

26. *Year* means 365 calendar days.

B. As used herein, the disjunctive “or” includes the conjunctive “and”. Further, the singular shall include the plural and vice versa.

ARTICLE 2 WORK/PRELIMINARY REQUIREMENTS

2.1 Work. CONTRACTOR agrees to furnish and complete all authorized and approved work, materials, supplies, tools, furnishings, fixtures, labor, services, equipment, site development, regulatory matters, testing surveying, engineering, landscaping, accounting, coordinating, and construction of the Project.

2.2 Commencement of Work and Notices To Proceed. The Date of Commencement of the Work shall be the date indicated in the Notice to Proceed. Notice to Proceed as to each Phase shall be issued by the Project Manager after the CONTRACTOR has delivered to the COUNTY the executed AGREEMENT, the Bonds and Insurance Certificates in accordance with the AGREEMENT, and the Board has approved this AGREEMENT. No Work shall be performed by the CONTRACTOR or its Professionals, subconsultants, or subcontractors, and no irrevocable commitments to vendors shall be made prior to the Date of Commencement, at which time, CONTRACTOR may commence to perform Work.

2.3 Preconstruction Conference(s). Immediately following the issuance of the Notice to Proceed the CONTRACTOR shall meet with the COUNTY for review and acceptance of the CONTRACTOR'S initial submittals, CPM Schedule, Final Schedule of Values, personnel and Subcontractor list, to review mobilization requirements, to establish procedures for handling shop drawings and other Submittals and Applications for Payment, and to establish a working understanding among the parties as to the Work.

2.4 Assumption of Risks. CONTRACTOR shall become familiar with and prepare for the normal weather conditions existing in Martin County, Florida. Normal weather conditions are expected to impact the Work in numerous ways, including but not limited to, delays during and after periods of rainfall, temporary flooding and ponding, wet ground, high winds and debris. CONTRACTOR'S Contract Price and Project Schedule, and any subsequent approved revisions thereto, shall sufficiently anticipate and include normal weather Days as reflected by 10-year average of historical records produced by the National Weather Service. Additionally, the CONTRACTOR assumes the risk for all costs associated with concealed Site conditions which are foreseeable through the exercise of due diligence. Again, it shall be the obligation of CONTRACTOR to fully investigate the Site and provide sufficient contingency amounts for conditions which are foreseeable.

2.5 Requirement to E-Verify. ***As a condition precedent to entering into this AGREEMENT***, and in compliance with Section 448.095, Fla. Stat., Contractor and its subcontractors shall, register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

- A. Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this AGREEMENT.
- B. The COUNTY, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Fla. Stat., or the provisions of this section shall terminate the contract with the person or entity.
- C. The COUNTY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.

- D. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section 448.095(2)(d), Fla. Stat. Contractor acknowledges that upon termination of this AGREEMENT by the COUNTY for a violation of this section by Contractor, Contractor may not be awarded a public contract for at least one (1) year. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the COUNTY as a result of termination of any contract for a violation of this section.
- E. *Subcontracts.* Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

ARTICLE 3 CONTRACT PRICE

The COUNTY shall pay the CONTRACTOR for the performance of this Contract and completion of the Work under the Project in accordance with the Contract Documents, subject to adjustment by Change Order, the fixed Contract Price as stated on Page One of this Agreement (“Contract Price”), based on the unit costs and quantities in the Bid. The obligations of the COUNTY under this Agreement are subject to the availability of funds lawfully appropriated for the Project by the Board of County Commissioners of Martin County.

ARTICLE 4 CONTRACTOR RESPONSIBILITIES

4.1 CONTRACTOR represents that it has familiarized itself with, and assumes full responsibility for having familiarized itself with, the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that may in any manner affect performance of the Work and represents that it has correlated its study and observations with the requirements of the Contract Documents. CONTRACTOR also represents that it has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the Specifications and made such additional surveys and investigations as it deems necessary for the performance of the Work at the Contract Price in accordance with the requirements of the Contract Documents and that it has correlated the results of all such data with the requirements of the Contract Documents.

4.2 The CONTRACTOR shall give all notices and comply with all municipal, local, state and federal laws, ordinances, codes, rules, licenses, and regulations applicable to the Work. If the CONTRACTOR observes that any of the AGREEMENT is contradictory to such laws, rules, and regulations, it shall notify the Project Manager promptly in writing. If the CONTRACTOR performs any Work that it knows or should have known to be contrary to such laws, ordinances, rules, and regulations, it shall bear all related costs.

4.3 CONTRACTOR acknowledges that its duties hereunder shall not be excused or discharged in any respect based on the incompleteness or inaccuracy of any such documents or materials.

4.4 CONTRACTOR shall be responsible to the COUNTY for acts and omissions of

CONTRACTOR and CONTRACTOR'S agents, employees, professionals, subconsultants, subcontractors, and all other parties performing Work by, through and under CONTRACTOR.

4.5 CONTRACTOR shall be responsible for the management, coordination and supervision of all construction means, methods, techniques, sequences and procedures for completion of the Work.

4.6 The CONTRACTOR agrees to bind specifically every Professional, subconsultant and subcontractor to the applicable terms and conditions of the AGREEMENT, for the benefit of the COUNTY.

4.7 CONTRACTOR represents that it is fully experienced and properly qualified to perform the Work under the Contract Documents and that it is properly licensed, equipped, organized and financed to perform such Work.

4.8 CONTRACTOR shall act as an independent CONTRACTOR and not as the agent of COUNTY. The CONTRACTOR shall supervise and direct the Work and shall be solely responsible for the means, methods, techniques, sequences and procedures of construction subject to compliance with the Contract Documents.

4.9 The CONTRACTOR shall employ and maintain a full-time on-site Superintendent who shall have been designated in writing by the CONTRACTOR and pre-approved by the COUNTY. The Superintendent shall be dedicated to this the Project full time and shall have full authority to act on behalf of the CONTRACTOR in supervising the project and to obtain authority timely when necessary, for example, for change orders. The Superintendent shall be capable of properly interpreting the Contract Documents and be thoroughly experienced in the type of work being performed. The Superintendent shall have full authority to receive instructions from the Design Professional and to execute the orders or directions of the Design Professional, including promptly supplying any materials, tools, equipment, labor, and incidentals that may be required. The Superintendent shall be provided regardless of the amount of work sublet. The Superintendent shall speak and understand English, and the CONTRACTOR shall maintain at least one other responsible person who speaks and understands English, on the project during all working hours. All communications given to the Superintendent shall be as binding as if given to the CONTRACTOR. Nothing contained herein shall be construed as modifying the CONTRACTOR's duty of supervision and fiscal management as provided by Florida law. The COUNTY shall have the right of direct removal of any Authorized Representative of the CONTRACTOR. Any change in the Superintendent of the CONTRACTOR assigned to the Project shall be subject to the COUNTY's prior written approval. The Authorized Representative shall have full authority to receive instructions from the Owner and/or Design Professional, and to execute the orders or directions of the Owner and/or Design Professional, including promptly supplying any materials, tools, equipment, labor, and incidentals that may be required. The Superintendent shall provide such superintendence regardless of the amount of work sublet.

4.10 The CONTRACTOR shall perform at least 30% (thirty percent) of the total amount of the Work in-house. The foregoing 30% (thirty percent) is exclusive of general conditions and material ordered for work performed by sublets.

4.11 The CONTRACTOR shall not employ any subcontractor or Consultant against whom the COUNTY may have reasonable objection.

4.12 The CONTRACTOR shall keep at least one record copy in hard copy and one in electronic format of all Contract Documents on-site in good order and annotated to show all changes made during the construction process. Final acceptance of the Work will be withheld until all such modifications have been properly inserted electronically into the design documents (thus creating "As-Built Documents") and provided to the COUNTY, and the COUNTY approves those As-Built Documents.

4.13 The CONTRACTOR shall provide the COUNTY two copies of the Record Drawings verifying the as-built conditions for all installed and constructed components of the Work, including, but not limited to, the surface water management, traffic control, lighting, water distribution, and wastewater collection systems. The Record Drawings, which shall be signed and sealed by a Professional Engineer or Surveyor and Mapper, licensed in the State of Florida, must demonstrate to the Project Manager that the Project components were constructed in substantial conformance with the approved Construction Plans and applicable permits and that the Project will function as designed and intended. The Record Drawings must be certified based on an As-Built Survey prepared in accordance with the Standards of Practice established in Florida Administrative Code (FAC) 5J-17.051 and 5J-17.052. If the Project Manager determines that the as-built conditions of one or more components are not constructed in substantial conformance with the approved Construction Plans or that the Record Drawings do not sufficiently demonstrate conformance with the Construction Plans, one set of the Record Drawings will be returned to the CONTRACTOR that identify the deficient component(s) of the Work. The CONTRACTOR shall correct the component(s) or the Record Drawing in the timeframes set forth in Article 6 of this Agreement. Upon acceptance by the Project Manager, the CONTRACTOR shall provide the COUNTY with one (1) copy of the Record Drawings electronically in AutoCAD® and Adobe Acrobat®. The Adobe Acrobat® file shall be a replica of the signed and sealed Record Drawing. Unless the COUNTY agrees otherwise in writing, the Adobe Acrobat® file shall be digitally signed by the Professional Engineer or Surveyor and Mapper, licensed in the State of Florida.

4.14 The CONTRACTOR shall, at its expense, attend any and all meetings called by COUNTY to discuss the Work under the Contract.

4.15 CONTRACTOR shall deliver to the COUNTY both prior to commencing the Project and also at the completion of the Project and before receipt of Final Payment, a DVD video of the Project showing the site before Work is commenced, the site as it progresses on a monthly basis, and after Work has been completed. CONTRACTOR shall identify on the videos the station numbers as those areas of the Project are taped, as well as the date recorded. The cost of the recording is included in the bid submitted by the CONTRACTOR.

4.16 CONTRACTOR shall not establish and shall not allow its employees to engage in any commercial activities on the Project site unrelated to the Project.

4.17 The CONTRACTOR shall, at its expense, arrange for, develop and maintain all utilities in Work areas to meet the requirements of the Contract. Such utilities shall be furnished by CONTRACTOR at no additional cost to the COUNTY, and shall include, but not be limited to, the following: public telephone service for the CONTRACTOR'S use; construction power as required at each point of construction; and water as required throughout the construction. Prior to final acceptance of the Work the CONTRACTOR shall, at its expense, satisfactorily remove and dispose of all temporary utilities developed to meet the requirements of the Contract. The COUNTY will assume the utility costs directly related to its usage of areas in which it has taken

Beneficial Occupancy.

4.18 The CONTRACTOR shall be responsible for the proper maintenance, control, and detour of traffic in the area of construction, during the course of construction. All traffic control and maintenance procedures shall be in accordance with the requirements of either the Florida Department of Transportation, Martin County, or the local municipality, within their respective area of jurisdiction. It shall be the CONTRACTOR'S responsibility, as Bidder, prior to submitting its Bid, to determine the requirements of these agencies so that its Proposal reflects all costs to be incurred. No claims for additional payment will be considered for costs incurred in the proper maintenance, control, detour and protection. The CONTRACTOR shall notify all such agencies and the COUNTY at least seven (7) days in advance of any traffic detour. The CONTRACTOR shall notify all such agencies and the COUNTY at least fourteen (14) days in advance of any road closure.

4.19 The CONTRACTOR is responsible for adequate drainage at all times. Existing functioning storm sewers, gutters, ditches, and other run-off facilities shall not be obstructed.

4.20 Fire hydrant on or adjacent to the highway shall be kept accessible and no obstruction shall be placed within fifteen feet (15') of any hydrant.

4.21 Heavy Equipment shall not be operated close enough to pipe headwalls or other structures to cause their displacement.

4.22 Where the COUNTY determines it to be necessary for maintaining the security of livestock or adjacent property or for protection of pedestrians, the CONTRACTOR shall erect and operate under temporary security fencing. Permanent fencing shall be addressed as required by the Plans and Specifications.

4.23 CONTRACTOR certifies that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, F.S. In addition, CONTRACTOR agrees to observe the requirements of Section 287.135, F.S., for applicable sub-agreements entered into for the performance of Work under this Agreement.

ARTICLE 5 PAYMENT

5.1 Schedule of Values; Retainage

The schedule of values will serve as the basis for payments. The schedule of values shall be approved by the County prior to commencement of the project, that is, before the first Notice to Proceed. Pursuant to Section 255.078(1), Florida Statutes, the COUNTY will withhold from each progress payment made to the CONTRACTOR the amount of 5% of the payment as retainage. Pursuant to Section 255.078(3), Florida Statutes, the COUNTY may elect not to pay or release any amounts (such as retainage) that are the subject of a good faith dispute, the subject of a claim brought pursuant to Section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the COUNTY or CONTRACTOR.

5.2 Method of Payment and Payment

5.2.1. CONTRACTOR may submit invoices for compensation no more often than on a

monthly basis, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days after the end of the month covered by the invoice, except that the final invoice must be received no later than sixty (60) days after expiration or earlier termination of this Agreement. Invoices shall designate the services performed and, as applicable, the personnel, hours, tasks, or other details as requested by COUNTY.

5.2.2. Any invoice submitted by CONTRACTOR shall be in accordance with the schedule of values minus any agreed upon retainage. Retainage amounts shall only be invoiced to COUNTY upon completion of all services.

5.2.3. COUNTY shall pay CONTRACTOR within twenty-five (25) days of CONTRACTOR's approved invoice. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement. COUNTY may withhold payment, in whole or in part, for failure of CONTRACTOR to comply with a term, condition, or requirement of this Agreement.

5.2.4. CONTRACTOR shall pay subcontractors and suppliers within ten (10) days following receipt of payment from COUNTY for such subcontracted work or supplies. CONTRACTOR agrees that if it withholds an amount as retainage from subcontractors or suppliers, it will release such retainage and pay same within ten (10) days following receipt of payment of retained amounts from COUNTY. Failure to pay a subcontractor or supplier in accordance with this subsection shall be a material breach of this Agreement, unless CONTRACTOR demonstrates to COUNTY's satisfaction that such failure to pay results from a bona fide dispute with the Subcontractor or supplier and, further, CONTRACTOR promptly pays the applicable amount(s) to the subcontractor or supplier upon resolution of the dispute. CONTRACTOR shall include requirements substantially similar to those set forth in this subsection in its contracts with subcontractors and suppliers.

5.3 CONTRACTOR'S Warranty of Title. The CONTRACTOR warrants and guarantees that title to all Work covered by an Application for Payment, whether incorporated in the Work or not, shall pass to the COUNTY prior to the making of the Application for Payment, free and clear of all liens, claims, security interests, purchase money security interest, chattel paper or encumbrances of any nature whatsoever ("Liens").

5.4 The CONTRACTOR shall promptly pay all Subcontractors, laborers, materialmen, and suppliers upon receipt of payment from the COUNTY, out of the amount paid to the CONTRACTOR on account of such person's portion of the Work, the amount to which such person is entitled, reflecting percentages actually retained from payments to the CONTRACTOR on account of such person's portion of the Work. The CONTRACTOR shall, by appropriate agreement with each Subcontractor or other person, require each subcontractor or other person to make payments to Sub-subcontractors in similar manner.

5.5 A Certificate of Payment, a progress payment, or partial or entire use of the Project by the COUNTY shall not constitute acceptance of Work not in accordance with the Contract Documents.

5.6 In accordance with the provisions of Florida Statutes section 255.05, where the CONTRACTOR requires a waiver from laborers, materialmen, subcontractors, or sub-subcontractors (as each such term is defined by Florida Statutes section 713.01) of the right to make a claim against the Payment Bond in exchange for, or to induce payment of, a progress

payment or a final payment; such waivers shall comply with the form set forth in Florida Statutes section 255.05 as amended from time to time. Written consent from the surety in a form acceptable to the County regarding the project or payment may be given in lieu of waivers.

5.7 If one or more "Notice of Non-Payment" is received by the COUNTY, no further payments will be approved until non-payment(s) have been satisfied and a "Release of Claim" for each "Notice" has been submitted to the COUNTY. Upon request, CONTRACTOR shall furnish acceptable evidence that all such claims or liens have been satisfied. If CONTRACTOR fails to satisfy the nonpayment, COUNTY may make payment and back charge CONTRACTOR for any and all costs associated with such payment.

5.8 Progress. If at any time during the progress of Work, CONTRACTOR'S actual progress is inadequate to meet the requirements of the Contract, COUNTY may, but is not required to, notify CONTRACTOR to implement some or all of the following remedial actions at the sole cost and expense of CONTRACTOR:

1. Increase construction manpower in such quantities and crafts as necessary to eliminate the schedule progress deficiency;
2. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of construction equipment, or any combination of the foregoing to eliminate the schedule progress deficiency;
3. Reschedule the Work in conformance with the specification requirements.

5.9 Neither such notice by COUNTY nor COUNTY'S failure to issue such notice shall relieve CONTRACTOR of its obligation to achieve the quality of Work and rate of progress required by the Contract.

ARTICLE 6 TIME OF PERFORMANCE

6.1 Time is of the essence under this Agreement.

6.1.1 Substantial Completion

The following items, as applicable, shall be completed prior to an inspection for Substantial Completion:

1. All general construction completed, and the project components shall be clean, and all systems fully functional.
2. All mechanical and electrical Work substantially complete, fixtures in place, connected, cleaned and usable.
3. All electrical circuits shall be scheduled in panels, and all panels and disconnect switches properly labeled.
4. All painting shall be completed; all signs installed.

5. All floors, glass and metal Work shall be cleaned.
6. All finish hardware shall be installed, and all doors shall be in good Working order.
7. Project site shall be cleared of the CONTRACTOR'S excess equipment, temporary facilities, trailers, and/or building supplies. All temporary construction shall be removed, and all Sitework completed.
8. All operations and maintenance manuals for all equipment shall have been submitted.
9. Manufacturers certifications, warranties, and current as-builts shall be delivered to COUNTY.
10. All operations and maintenance training related literature, software and back-up electronic files have been provided.
11. All required spare parts, materials, as well as any special measuring devices and tools shall have been provided to COUNTY.
12. All air and water balancing reports shall have been submitted.
13. All keys and blanks shall have been provided.

6.1.2 When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify COUNTY in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that the COUNTY or COUNTY's authorized agent issue a certificate of Substantial Completion. Promptly thereafter, COUNTY and CONTRACTOR, and Architect/Engineer shall make an inspection of the Work to determine the status of completion. For the purpose of this Contract, and for the compliance of those procedures, duties and obligations as set forth in Florida Statutes §218.70 et. seq. and §218.735 et. seq. the term "Substantial Completion" is defined as that point where COUNTY is able to enjoy beneficial occupancy of the Work and where the Work has achieved that level of completion such that COUNTY is able to utilize the entire Project for its intended purposes, including but not limited to the completion of all specified systems and items relating to life, safety and regulatory use, with the exception of incidental or incomplete items except where a lack of completion of such incidental or incomplete items of Work will adversely affect the complete operation of other areas of the Work. Additional conditions (if any) needed to achieve Substantial Completion of the Work and which are project specific are as set forth in attached Exhibits. If COUNTY does not consider the Work substantially complete, COUNTY will notify CONTRACTOR in writing giving the reasons therefore. If COUNTY considers the Work substantially complete, COUNTY will issue a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. If COUNTY considers the Work substantially complete, then, for construction projects having an estimated cost of less than 10 million dollars:

- A. The intent of this section is for the COUNTY and the CONTRACTOR to cooperate to develop a Final Punchlist no later than 30 (thirty) days from the date of reaching Substantial Completion.

- B. Within 5 (five) days of Substantial Completion of the Project, the CONTRACTOR shall schedule a walkthrough with the COUNTY ("Punchlist Walkthrough"). The purpose of the Punchlist Walkthrough is to 1) determine that the project has achieved Substantial Completion, and if so, to develop a Punchlist of items to be performed by the CONTRACTOR, based upon observations made jointly between the CONTRACTOR and the COUNTY during the Punchlist Walkthrough and 2) to establish an estimated cost to complete each item on the Punchlist. The COUNTY may include within such cost estimation the total costs for completing such item of work, including the administrative costs as well as costs to address other services needed or areas of work which may be affected in order to achieve full completion of the Final Punchlist item. The COUNTY shall issue the Final Punchlist, including the estimated cost for each item, within 30 (thirty) days of the Substantial Completion date.
- C. The CONTRACTOR shall endeavor to address and complete as many items as possible noted on the Punchlist either during the Punchlist Walkthrough itself or within 20 (twenty) days from the date of the Punchlist Walkthrough.
- D. No more than 20 (twenty) days following the issuance of the Final Punchlist, the CONTRACTOR shall again initiate and request a second walkthrough ("Final Walkthrough") of the Project with the COUNTY. The purpose of the Final Walkthrough is to identify which items on the Punchlist remain incomplete and to supplement that list as legally necessary (based, for example, upon work which may have been damaged as a result of the CONTRACTOR's performance of completion of items contained on the Punchlist).
- E. The CONTRACTOR shall complete the Final Punchlist items within 30 (thirty) days of the date of its issuance by the COUNTY.
- F. Within twenty (20) business day after the Punchlist is created, the COUNTY must pay the contractor the remaining contract balance less an amount equal to 150% of the estimated cost to complete any items remaining on the Punchlist.
- G. The CONTRACTOR acknowledges and agrees that no item contained on the Final Punchlist shall be considered a warranty item until such time as: (i) the Final Punchlist is 100% (one hundred percent) complete; and (ii) the COUNTY has been able to operate or utilize the affected punchlist item for 15 (fifteen) days, whichever occurs last.
- H. The CONTRACTOR acknowledges and agrees that the COUNTY may, at their option, during performance of the Work and prior to Substantial Completion, issue lists of identified non-conforming or corrective work for the CONTRACTOR to address. The intent of any such lists prior to Substantial Completion is to streamline the Punchlist process upon achieving Substantial Completion, and to allow for the CONTRACTOR to address needed areas of corrective work as they may be observed by the COUNTY during performance of the Work.
- I. The CONTRACTOR acknowledges and agrees that in calculating 150% (one hundred fifty percent) of the amount which may be withheld by the COUNTY as to any Final Punchlist item for which a good faith basis exists as to it being complete, as provided for by §218.735(7)(e), Florida Statutes, the COUNTY may include within such percentage calculation its total costs for completing such item of work, including its

administrative costs as well as costs to address other services needed or areas of work which may be affected in order to achieve full completion of the Final Punchlist item. Such percentage shall in no event relate to the schedule of value associated with such the Work activity, but rather total costs are based upon the cost of completing the Work activity based upon market conditions at the time of Final Punchlist completion.

6.1.3 If Substantial Completion has not been obtained at the Punchlist Walkthrough inspection called by the CONTRACTOR, for reasons that are the fault of the CONTRACTOR, the cost of any subsequent inspections requested by the CONTRACTOR for the purpose of determining Substantial Completion shall be at the cost of the CONTRACTOR and shall be assessed against the final payment application. Punch list items recorded as a result of inspections for Substantial Completion are to be corrected by the CONTRACTOR within the timeframe established.

6.1.4 COUNTY shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but COUNTY shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

6.2 Partial Utilization

A. Use by COUNTY at COUNTY'S option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which COUNTY, Design Professional, and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by COUNTY for its intended purpose without significant interference with CONTRACTOR'S performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. COUNTY at any time may request CONTRACTOR in writing to permit COUNTY to use any such part of the Work which COUNTY believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to COUNTY and Design Professional that such part of the Work is substantially complete and request Design Professional to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify COUNTY and Design Professional in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request Design Professional to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, COUNTY, CONTRACTOR, and Design Professional shall make an inspection of that part of the Work to determine its status of completion. If Design Professional does not consider that part of the Work to be substantially complete, Design Professional will notify COUNTY and CONTRACTOR in writing giving the reasons therefore.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with this Agreement regarding property insurance.

6.3 Final Inspection

A. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, Design Professional will promptly make a final inspection with COUNTY and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

6.4 Final Payment

A. Application for Payment

1. After CONTRACTOR has, in the opinion of Design Professional, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents, current as-builts, and other documents.

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to COUNTY) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens and as approved by COUNTY, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which COUNTY or COUNTY'S property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to COUNTY to indemnify COUNTY against any Lien.

B. Review of Application and Acceptance

1. If, on the basis of Design Professional's observation of the Work during construction and final inspection, and Design Professional's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Design Professional is satisfied that the Work has been completed and CONTRACTOR'S other obligations under the Contract Documents have been fulfilled, Design Professional will, within ten days after receipt of the final Application for Payment, indicate in writing Design Professional's recommendation of payment and present the Application for Payment to COUNTY for payment. At the same time Design Professional will also give written notice to COUNTY and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, Design Professional will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Upon completion of all items on the punchlist, final payment is due twenty-five days after the payment request or invoice is stamped as received by County, Payment on a corrected payment requests, must be paid or rejected ten (10) days after the date the corrected payment request or invoice is stamped as received; or

2. If a good faith dispute, made in writing, exists as to whether one or more items identified on the list have been completed pursuant to the contract, the COUNTY may continue to withhold an amount not to exceed 150 percent of the total costs to complete such items.

6.5 If Substantial Completion is not obtained at the inspection called by the CONTRACTOR, for reasons that are the fault of the CONTRACTOR, the cost of any subsequent inspections requested by the CONTRACTOR for the purpose of determining Substantial Completion shall be at the cost of the CONTRACTOR and shall be assessed against the final payment application. Punch list items recorded as a result of inspections for Substantial Completion are to be corrected by the CONTRACTOR within the timeframe established.

ARTICLE 7 LIQUIDATED DAMAGES; FORCE MAJEURE

7.1 Upon failure of the CONTRACTOR to Substantially Complete the Agreement within the specified period of time, plus approved time extensions, the CONTRACTOR shall pay to the COUNTY daily liquidated damages in the amount shown on Page 1 of this Agreement to reflect the COUNTY's estimated damages resulting from the delay to Substantial Completion.

7.2 Upon failure of the CONTRACTOR to Finally Complete the Agreement within the specified period of time, plus approved time extensions, the CONTRACTOR shall pay to the COUNTY daily liquidated damages in the amount shown on Page 1 of this Agreement to reflect the COUNTY's estimated damages resulting from the delay to Final Completion.

7.3 Milestones, milestone completion dates, and applicable Liquidated Damages shall be in accordance with the Contract Documents.

7.4 If the milestones are not strictly complied with, then Liquidated Damages will be assessed against the CONTRACTOR, which are agreed upon, and it is further agreed that such Liquidated Damages bear a reasonable relationship to damages to be incurred by the COUNTY, and are not a penalty.

7.5 Force Majeure. A party shall not be liable for any failure of or delay in the performance of this agreement for the period that such failure or delay is beyond the reasonable control of a party, materially affecting the performance of any of its obligations under this agreement, and could not reasonably have been foreseen or provided against, but will not be excused for failure or delay resulting from only general economic conditions or other general market effects. If either party invokes this provision to avoid performance of any obligation under this Agreement and a Court determines that party wrongfully invoked this provision to evade performance of such an obligation, the aggrieved party shall be entitled to its reasonable attorney's fees and costs for obtaining the Court's determination of the same.

ARTICLE 8 CLAIMS FOR ADDITIONAL TIME

8.1 If the CONTRACTOR'S performance of this Contract is delayed: i) which delay is beyond the reasonable control and without the fault or negligence of the CONTRACTOR or its subcontractors; or ii) by changes ordered in the Work, and in either event where such delay or change in the Work affects the critical path, then the Contract Time shall be extended by Change Order as determined by the COUNTY . If the CONTRACTOR wishes to make Claim for an

increase in the Contract Time, CONTRACTOR shall provide COUNTY a written notice of claim upon discovering the cause of the alleged delay. Such notice of claim shall include the following information, or else be waived:

1. Nature of the delay or change in the Work;
2. Dates of commencement and cessation of the delay or change in the Work;
3. Activities on the current progress schedule affected by the delay or change in the Work;
4. Identification and demonstration that the delay or change in Work affects the critical path;
5. Identification of the source of delay or change in the Work;
6. Anticipated extent of the delay or change in the Work; and
7. Recommended action to minimize the delay.

8.2 The CONTRACTOR shall not be entitled to any extension of time for delays resulting from any cause unless CONTRACTOR shall have notified the COUNTY in writing within seven (7) days of commencement of the delay.

8.3 No Damages for Delay; Exclusive Remedy. The CONTRACTOR shall not be entitled to and hereby waive any and all claims for damages which they may suffer by reason of delay, acceleration, loss of efficiency, or other related time or impact-based claims (hereinafter collectively "delay") or for delay attributable to any foreseen or unforeseen condition, or for delays claimed to be the result of active, intentional, knowing or passive interference by the COUNTY, Architect, Design Professional, or its agents, and waives damages which it may suffer by reason of such claims for lost profits, loss or impairment of bonding capacity, destruction of business, extended overhead, supervision, extended, unabsorbed home office overhead; the extension of time granted herein being the CONTRACTOR'S sole remedy, with the exception that in the event of demonstrated critical, compensable, non-concurrent delay suffered by the CONTRACTOR, the CONTRACTOR may claim as its sole and exclusive remedy any associated, extended direct jobsite general conditions expended by the CONTRACTOR (hereinafter "applicable extended general conditions") in a sum not to exceed \$250.00 per each day of delay. Apart from extensions of time or acceleration costs approved by COUNTY and any applicable extended general conditions, no payment of claim for delay damages shall be made to the CONTRACTOR as compensation for damages for any delays or hindrances from any cause whatsoever in the progress of the Work, whether such delay be avoidable or unavoidable. Notwithstanding anything herein to the contrary, provided CONTRACTOR have otherwise satisfied the requirements of this Contract, the CONTRACTOR shall be entitled to an increase in the Contract sum based upon approved general condition, insurance, and bond premium costs resulting from delays for which the Design Professional has approved by Change Order. an extension of time for performance; provided, however, COUNTY shall not be required to pay such additional amounts for any days following the date on which CONTRACTOR achieves Final Completion for the appropriate portion of the Work.

**ARTICLE 9
SITE CONDITIONS**

9.1 Field Measurements. Before undertaking each part of the construction, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to the COUNTY any conflict, error or discrepancy which CONTRACTOR or any of its Subcontractors or Suppliers may discover and shall obtain a written interpretation or clarification from COUNTY before proceeding with any Work affected. CONTRACTOR shall remain liable to COUNTY for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents prepared by CONTRACTOR.

9.2 Differing Site Conditions. The CONTRACTOR shall promptly, and before such conditions are disturbed, notify the COUNTY in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in this Contract, or (2) unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in this Contract. The COUNTY will promptly investigate the conditions, and if it finds that such conditions do materially so differ and cause an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any part of the Work under this Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. CONTRACTOR'S failure to provide notice upon discovery of the differing site condition shall waive any entitlement to such an adjustment in the Contract Price or Contract Time.

**ARTICLE 10
INDEMNIFICATION**

The CONTRACTOR hereby assumes entire responsibility and liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether employees of any tier of the CONTRACTOR, its SUBCONTRACTS, CONSULTANTS or SUPPLIERS or otherwise, and to all property caused by, resulting from, arising out of or occurring in connection with the execution of the Contract, or in preparation for the work and services under this Contract, or any extension, modification, or amendment thereto by change order to otherwise.

CONTRACTOR hereby agrees to indemnify and hold harmless MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, its officers and employees from liabilities, damages, lawsuits, 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 or persons employed or utilized by the CONTRACTOR in the performance of the Construction Contract.

**ARTICLE 11
TERMINATION**

11.1 Notwithstanding any other provision of this Contract, the CONTRACTOR may be held in default of its contractual obligation under this Contract if the CONTRACTOR:

1. refuses or fails to supply enough properly skilled workers or proper and sufficient materials and equipment;
2. fails to make payment to Subcontractors for materials or labor in accordance with

the respective agreements between the CONTRACTOR and the Subcontractors;

3. disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
4. performs Work that does not conform to Contract Documents requirements;
5. fails to meet the Contract schedule or fails to make progress on the Work so as to endanger performance of the Contract;
6. abandons or refuses to proceed with any or all Work; or
7. otherwise breaches, fails to comply fully with, or is in default of any provision of the Contract Documents.

11.2 The COUNTY must provide written notice to the CONTRACTOR notifying it that the COUNTY is declaring it in default and providing the CONTRACTOR with five (5) days after receipt of such written notice of default, to cure such default. In the event that the CONTRACTOR fails to cure the default within the five (5) day default period, the COUNTY may:

1. take possession of the Work site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the CONTRACTOR;
2. accept assignment of subcontracts pursuant to this Agreement; and
3. finish the Work by whatever reasonable method the COUNTY may deem expedient, and charge all completion costs against any monies owed or to be owed to CONTRACTOR, or back charge CONTRACTOR for any and all such completion costs, or
4. terminate the CONTRACTOR and hire a completion CONTRACTOR to finish the Work by whatever reasonable method the COUNTY may deem expedient, and charge all completion costs, including costs for construction, architectural, engineering, project management, and any other expenses, against any monies owed or to be owed to CONTRACTOR, or back charge CONTRACTOR for any and all such completion costs, or
5. set off any and all such completion costs against any monies then due or to become due on any other projects that the COUNTY has with CONTRACTOR.

11.3 Upon default, CONTRACTOR shall not be entitled to receive further payment until the Work is finished.

11.4 If, after notice of termination, it is determined for any reason that the CONTRACTOR was not in default, or that the delay was excusable under the provisions of the Contract Documents, the rights and obligations of the parties shall be the same as if the notice of termination had been a Termination by the COUNTY for Convenience.

11.5 Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement for cause if the CONTRACTOR, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, its affiliates, or its subcontractors are placed on any applicable scrutinized companies list or engaged in prohibited contracting activity

during the term of this Agreement. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

11.6 Termination by the COUNTY for Convenience. Notwithstanding any other provision to the contrary in the Contract Documents, the COUNTY reserves the right at any time and in its sole and absolute discretion to terminate the services of the CONTRACTOR with respect to the Work by giving written notice to the CONTRACTOR. In such event, the CONTRACTOR shall be entitled to, and the COUNTY shall reimburse the CONTRACTOR for, an equitable portion of the Contract Price based on the portion of the Work completed prior to the effective date of termination and for any other reasonably expended costs attributable to such termination. However, CONTRACTOR shall not be entitled to receive its anticipated profits for any unperformed Work.

11.7 Should the CONTRACTOR'S Contract be terminated for any reason, the CONTRACTOR shall, at no additional cost to the COUNTY, give written permission to the COUNTY to utilize all design documents necessary for the purpose of completing the Project with another CONTRACTOR.

ARTICLE 12 SUSPENSION OF WORK

The COUNTY may, without cause, order the CONTRACTOR in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the COUNTY may determine.

ARTICLE 13 CHANGES IN THE WORK

13.1 The COUNTY may, at any time or from time to time, order additions, deletions or revisions in the Work. Upon request of the COUNTY, a request for proposal will be issued to the CONTRACTOR detailing the proposed additions, deletions or revisions to the Work. The request for proposal shall include such details as man-hours, man-hour rates, quantities, quantity unit rates, equipment, equipment unit rates and mark-ups. The CONTRACTOR shall complete and return the request for proposal to the COUNTY within ten (10) days from receipt thereof. The request for proposal shall include any increases or decreases in Contract Time or Contract Price and shall include any additional modifications required by virtue of the requested change, whether or not such additional modifications were specifically identified in the request for proposal. The request for proposal may then be: 1) issued as a Change Order in accordance with the provisions of the Contract Documents; 2) modified and thereafter issued as a Change Order in accordance with the provisions of the Contract Documents; or 3) withdrawn.

13.2 The COUNTY may authorize minor changes or alterations in the Work not involving extra cost or time and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the CONTRACTOR believes that any minor change or alterations authorized by the COUNTY entitles it to an increase in the Contract Price or extension of Contract Time, it shall treat the Field Order as a request for proposal and issue a proposal for the changes in Contract Price and Contract Time prior to proceeding with the Work covered in the Field Order. The procedures outlined in the Contract Documents shall then be followed. Acceptance of the Final Payment by the CONTRACTOR shall constitute acknowledgment by the CONTRACTOR that all payments due for modifications required under Field Orders have been incorporated into the Final Payment.

13.3 Additional Work performed by the CONTRACTOR without authorization of a written Change Order will not entitle it to an increase in the Contract Price or an extension of the Contract Time.

13.4 It is the CONTRACTOR'S responsibility to notify its Surety of any changes affecting the general scope of the Work or change in the Contract Price and the amount of the applicable Bonds shall be adjusted accordingly. The CONTRACTOR shall furnish proof of such adjustment to the COUNTY.

13.5 The COUNTY may, at any time, without notice to the Surety, by Field Order or by properly executed Change Order, make any change in the Work within the general scope of the Contract Documents, including but not limited to changes:

- A. in the Drawings and designs, and Specifications;
 - B. in the method or manner of performance of the Work;
 - C. in the COUNTY -furnished facilities, equipment, materials, services or site;
- or
- D. directing acceleration in the performance of the Work.

13.6 Except as herein provided, no order, statement, or conduct of the COUNTY shall be treated as a Change Order or Field Order or entitle the CONTRACTOR to an equitable adjustment hereunder.

13.7 No claim by the CONTRACTOR for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Contract.

13.8 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price, except for additional design services, shall be determined in one of the following ways at the sole discretion of the COUNTY:

- A. where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved;
- B. by negotiated lump sum; or
- C. cost plus. If this option is selected, COUNTY reserves the right to request any and all documentation from CONTRACTOR in support of its foregoing actual costs, and CONTRACTOR agrees promptly to supply such information.

13.9 For changes in the Work performed by CONTRACTOR's own forces, CONTRACTOR shall be entitled to a percentage mark-up for actual costs as defined in Section 1 of ten (10) percent.

13.10 For changes in the Work performed by subcontractors, (a) the subcontractor shall be entitled to mark-up the cost of the change(s) by ten (10) percent, and (b) the CONTRACTOR shall be entitled to mark-up the subcontractor's total by five (5) percent.

ARTICLE 14 MATERIALS, EQUIPMENT AND WORKMANSHIP; SUBSTITUTIONS

14.1 Only new, unused items of recent manufacture, of designated quality, free from defects, will be accepted. Rejected items shall be removed immediately from the Work and replaced with items of specified quality. Failure by COUNTY to order removal of rejected materials and equipment shall not relieve CONTRACTOR from responsibility for quality of the materials supplied nor from any other obligation under the Contract Documents.

14.2 No Work defective in construction or quality, or deficient in meeting any requirement of the Contract Drawings and Specifications will be acceptable regardless of COUNTY'S failure to discover or to point out defects or deficiencies during construction; nor will the presence of field representatives at the Work or the satisfaction of the WORK meeting applicable code requirements relieve CONTRACTOR from responsibility for the quality and securing progress of Work as required by the Contract Documents.

14.3 Prior to proposing any substitute item, CONTRACTOR shall satisfy itself that the item proposed is, in fact, equal or better to that specified, that such item will fit into the space allocated, that such item affords comparable ease of operation, maintenance and service, that the appearance, longevity and suitability for the climate are comparable, and that by reason of cost savings, reduced construction time, or similar demonstrable benefit, the substitution of such item will be in COUNTY'S interest, and will in no way have a detrimental effect upon the Project completion date and schedule.

14.3.1 The burden of proof of equality of a proposed substitution for a specified item shall be upon CONTRACTOR. CONTRACTOR shall support its request with sufficient test data and other means to permit COUNTY to make a fair and equitable decision on the merits of the proposal. CONTRACTOR shall submit drawings, samples, data and certificates and additional information as may be required by the COUNTY for proposed substitute items as required by the Contract Documents.

14.3.2 Any item by a manufacturer other than those specified or of brand name or model number or of generic species other than those specified will be considered a substitution. COUNTY will be the sole judge of whether or not the substitution is equal in quality, utility and economy to that specified.

14.3.3 CONTRACTOR shall allow an additional 15 days for COUNTY'S review of substitutions. All requests for substitutions with submittal data must be made at least fifty (50) days prior to the time CONTRACTOR must order, purchase or release for manufacture or fabrication. Approval of a substitution shall not relieve CONTRACTOR from responsibility for compliance with all requirements of the Contract. CONTRACTOR shall coordinate the change with all trades and bear the expense for any changes in other parts of the Work caused by any substitutions.

14.3.4 If COUNTY rejects CONTRACTOR'S substitute item on the first submittal, CONTRACTOR may make only one additional request for substitution in the same category. Upon the second request, the CONTRACTOR shall be invoiced the expenses of the COUNTY allocable to the review of such submittal data. The foregoing amounts shall be deducted, as applicable, from the next succeeding partial payment to the CONTRACTOR, or from the final payment.

ARTICLE 15 COMPLIANCE

15.1 All work, labor, materials and equipment provided under this Agreement shall be performed in strict compliance with any and all applicable building and fire, life and safety codes and strictly in accordance with plans and specifications. CONTRACTOR must satisfy itself that the Contract Documents in fact comply with all applicable codes. CONTRACTOR shall notify COUNTY prior to commencement of Work of any requirement of the plans and specifications not in strict compliance with such codes. There will be no extra payment for compliance to existing codes or any item of interpretation regarding enforcement of existing codes. CONTRACTOR is representing by acceptance of this Agreement that it has thoroughly researched all applicable codes and regulations affecting this Project.

15.2 If, during the term of this Contract, there are any changed or new laws, ordinances or regulations not known or foreseeable at the time of signing this Contract which become effective and which affect the cost or time of performance of the Contract, CONTRACTOR shall immediately notify COUNTY in writing and submit detailed documentation of such effect in terms of both time and cost of performing the Contract. Upon concurrence by COUNTY as to the effect of such changes, an adjustment in the Contract Price or time of performance will be made. If any discrepancy or inconsistency should be discovered between the Contract Documents and any law, ordinance, regulation, order or decree, CONTRACTOR shall immediately report the same in writing to COUNTY who will issue such instructions as may be necessary. However, it shall not be grounds for a Change Order that the CONTRACTOR was unaware of or failed to investigate the rules, codes, regulations, statutes, and all ordinances of all applicable governmental agencies having jurisdiction over the Project or the Work.

15.3 CONTRACTOR shall give all notices and at all times comply with all applicable laws, codes, ordinances, rules and regulations in effect during the time of performance of the Work.

15.4 CONTRACTOR shall deliver a product which will meet or exceed the Design Criteria package standards, provide a complete and functional facility including but not limited to all necessary interfaces between this facility and adjacent existing facilities, or anticipated future facilities. All built-in equipment, systems, controls, devices and finishes necessary for the efficient use and maintenance of the facility and its related site work, except as otherwise noted or clarified herein, shall be included in the Work.

ARTICLE 16 NON-DISCRIMINATION

CONTRACTOR covenants and agrees that the CONTRACTOR shall not discriminate against any employee or applicant for employment to be employed in the performance of the Agreement with the respect to hiring, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment because of age, sex, physical handicaps (except where based on a bona fide occupational qualification) marital status, race, color, religion, national origin or ancestry.

ARTICLE 17 DEFECTIVE WORK

17.1 Rejecting Defective Work. The COUNTY shall have authority to disapprove or reject

Work which is "defective" (which term is hereinafter used to describe Work that is unsatisfactory, faulty or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to final acceptance). Such parties shall also have authority to require special inspection or testing of the Work as such parties may individually or severally deem necessary, whether or not the Work is fabricated, installed or completed.

17.2 Correction of Defective Work. Upon presentation of a Defective Work Notice to the CONTRACTOR or CONTRACTOR'S Superintendent, the CONTRACTOR shall meet within twenty-four (24) hours with the COUNTY, and, at the sole option of COUNTY, the COUNTY'S representative, to discuss a work plan and timeline to correct the defective Work. The CONTRACTOR shall have no more than five (5) working days to begin corrective action and repairs in accordance with the agreed upon schedule; provided, however, all repairs to natural gas, telephone, radio, computer security, water, waste water, electric air conditioning services and all emergency services shall be commenced within twelve (12) hours of notification, or by 7:00 a.m. whichever is earlier, and CONTRACTOR shall complete the repairs in an expeditious manner befitting the nature of the deficiency. If the CONTRACTOR refuses to comply with the twenty four (24) hour meeting requirement, or the agreed upon correction schedule, the COUNTY has the right to do any of the following: (1) correct any Work so performed by the CONTRACTOR and deduct the expenses for doing so from the final payment due the CONTRACTOR, or (2) hold back final payment due CONTRACTOR until such time as the Work is completed to the satisfaction of the COUNTY and in compliance with the Contract Documents. The COUNTY shall have the sole discretion to determine if the Work is satisfactory and in compliance with Contract Documents. The foregoing remedies are not exclusive, and the COUNTY reserves the right to pursue any and all other remedies it deems applicable.

ARTICLE 18 BONDS AND INSURANCE

18.1 Payment and Performance Bonds. The CONTRACTOR shall, upon execution and return of this Agreement to the COUNTY, furnish a Public Payment Bond and a Performance Bond, pursuant to §255.05, Florida Statutes, in at least an amount equal to the Contract Price, for any Contract over \$200,000, covering the faithful performance of this Agreement and all CONTRACTOR'S faithful performance and payment of all CONTRACTOR'S obligations under the Contract Documents. The Bonds shall be recorded at the Martin County Clerk of the Circuit Court's Office at the CONTRACTOR'S expense. The Surety must be included in the most recent United States Department of the Treasury List of Acceptable Sureties, authorized to issue surety bonds in Florida, and which maintains a surety rating of "A-" or better. A complete copy of the fully executed Payment Bond shall be posted in a conspicuous place at the Project site. If the Surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its authorization to do business in the State of Florida is terminated or it ceases to be listed on the United States Department of Treasury List of Acceptable Sureties, or its surety rating ceases to be an "A-" or better, CONTRACTOR shall within five (5) days thereafter substitute another Payment Bond, Performance Bond, and Surety, each of which shall be in accordance with the Contract Documents and acceptable to COUNTY . An action to enforce any claim against a payment bond must be brought within one year from the last furnishing of labor, services, or materials, or as otherwise stated in §95.11 (5)(e). An action to enforce any claim against a performance bond must be brought within five years in accordance with §95.11(2)(b), and applicable case law.

18.2 Insurance

18.2.1 Certificate of Insurance. One (1) certified true copy of the policy/policies must be furnished by CONTRACTOR to COUNTY prior to commencement of any demolition, Site Work, Site preparation or construction Work. The Certificate(s) of Insurance must indicate Martin County Board of County Commissioners as Additional Insureds on all policies except Workers Compensation. The statement "Additional Insureds" is to be listed in the Description Block of the Insurance Certificate along with the Project name. The indication that Martin County Board of County Commissioners is a Certificate Holder is not sufficient for this issue. The Additional Insured endorsement must be attached to the Certificate of Insurance and shall include coverage for Completed Operations (should be ISO CG20101184 or CG20371001 and CG20100704) under the General Liability policy.

18.2.2 General Insurance Requirements. CONTRACTOR and, where designated, each of its subconsultants, Professionals, and subcontractors shall obtain and maintain during the full duration of Work required under this AGREEMENT, and through any period of limitation allowed by law for actions for personal injury, bodily injury, disease, death, property damages and other losses or damages required to be insured hereunder, the following insurance coverages, in the type, amounts, terms and in conformance with the following minimum requirements.

A. All policies and endorsements shall be issued on Insurance Service Office (ISO) forms or on forms providing broader and no less restrictive coverage. Notwithstanding the foregoing, the form and content of all policies and endorsements must be acceptable to the COUNTY. All insurance carriers must carry an A.M. Best Rating of A:IX or better and coverage should apply on a Primary and Noncontributory basis. At the discretion of the COUNTY, other coverage types and /or specific endorsements may be required depending upon the type and scope of work to be performed. All insurance must be acceptable by and approved by the COUNTY as to form and types of coverage.

B. The policy(s) shall provide for 30 days prior written notice to the COUNTY, by registered or certified mail, if cancellation or any change that will reduce the coverages required herein.

C. The policy(s) shall be written for the estimated construction Work, commencing with the initial demolition, Site Work or Site preparation and ending at the Final Completion date, and shall contain an endorsement providing for extension of the policy(s) for up to two (2) years. The Products and Completed Operations portions of the General Liability shall extend for a period of ten (10) years after the Final Acceptance of the Project by the COUNTY and shall include an "Additional Insured" endorsement.

D. All liability policies required herein shall be written on an occurrence basis.

E. The policies shall name the COUNTY, its commissioners and staff as additional insureds (including Completed Operations coverage under the General Liability) as their interest may appear under this Agreement.

F. All insurers shall agree to waive all rights of subrogation against the COUNTY and each individual member of the Board of County Commissioners, Constitutional Officers or staff.

G. It is the responsibility of the CONTRACTOR to ensure any independent contractors and subcontractors utilized on the project also comply with these insurance requirements.

18.2.3 Premiums. The CONTRACTOR shall be solely responsible for payment of all premiums for insurance required under this Agreement and shall be solely responsible for the

payment of all deductibles to which such policies are subject.

18.2.4 Specific Insurance Limits are as follows:

A. Workers' Compensation - The CONTRACTOR shall carry Workers' Compensation insurance on behalf of all employees who are required to provide a service under this Agreement, as required by Chapter 440, Florida Statutes and Employers Liability of limits no less than:

\$ 500,000	each accident
\$ 500,000	disease - policy limit
\$ 500,000	each employee

Should the scope of work performed by CONTRACTOR qualify its employees for benefits under Federal Worker's Compensation Statute (i.e. Longshoreman & Harbor Workers Act or Merchant Marine Act), proof of appropriate Federal Act coverage must be provided.

B. Commercial General Liability – with limits of not less than:

\$ 1,000,000	each occurrence
\$ 1,000,000	personal/advertising injury
\$ 2,000,000	products/completed operations (per project aggregate)
\$ 2,000,000	general aggregate (per project aggregate)
\$ 100,000	fire damage legal (any 1 fire)
\$ 10,000	medical expense (any 1 person)

Coverage to include include bodily injury, property damage liability, personal and advertising injury, products and completed operations, fire damage legal liability and medical expense coverage. Contractual Liability is to be included to cover the hold harmless agreement set forth in the contract. Coverage is to extend to independent contractors and fellow employees. XCU coverage is to be included. Coverage is to include a cross liability or severability of interest provision as provided under the standard ISO form separation of insureds clause. There should be no "damage to your work" exclusion for work performed by subcontractors. Policy is to include coverage for pollution release at project location in which the insured is performing non-environmental operations. There shall be no exclusion for mold, silica or respirable dust or bodily injury or property damage arising out of heat, smoke, fumes or ash from a hostile fire. If the project involves environmental exposures, Environmental Impairment Liability coverage shall be maintained.

C. Automobile Liability - \$1,000,000 Combined Single Limit coverage for all owned, hired, leased and non-owned vehicles.

D. Umbrella Liability - to include the Employers Liability, general liability and automobile in underlying policy schedule, with limits of not less than \$1,000,000.

E. Hazardous Material - if the Work being performed involves hazardous materials, the need to procure appropriate insurance coverage will be addressed in a contract modification. However, if hazardous materials are identified while carrying out

this Agreement, no further Work is to be performed in the area of the hazardous material until the COUNTY has been consulted as to the need to procure and maintain such coverage.

F. Builders Risk – CONTRACTOR shall purchase and maintain Builder's Risk insurance in an amount equal to 100% of the completed value of the project (without coinsurance) including any amendments thereto. The CONTRACTOR will be solely responsible for payment of policy deductibles.

This insurance shall:

1. include the interests of COUNTY, CONTRACTOR, subcontractors, Design Professional, Design Professional's consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;
2. be written on a Builder's Risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire, lightning, windstorm/and hail, theft, vandalism and malicious mischief, flood, earthquake, collapse, debris removal, demolition and increased cost of construction,, water damage, backup of sewers and drains and such other perils or causes of loss as may be specifically required;
3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);
4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by COUNTY prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by Design Professional;
5. allow for partial utilization of the Work by COUNTY;
6. include coverage for soft costs;
7. extend to foundations, excavations and other underground property;
8. include Pollution cleanup and removal;
9. include testing and startup; and
10. be maintained in effect until final payment is made unless otherwise agreed to in writing by COUNTY, CONTRACTOR, and Design Professional with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued; and
11. The COUNTY and CONTRACTOR waive all rights against each other and any of their subcontractors, agents and employees and the Design Professional,

for damages caused by fire or other causes of loss to the extent covered by Builders Risk obtained pursuant to this Section or other property insurance applicable to Work, except as to proceeds of such insurance held by CONTRACTOR as fiduciary.

18.2.5 Waiver of Subrogation. CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent.

ARTICLE 19 PERFORMANCE GUARANTEE AND WARRANTY

19.1 All materials and equipment incorporated into any Work shall be warranted and guaranteed as new quality, and of the highest grade of quality for their intended use, and all Work shall be performed in good workmanship and shall be in accordance with all plans and specifications and industry standards. The Work shall be functionally sound, technically proficient, developed with structural integrity, shall exhibit high quality architectural principles, and shall be in compliance with all governing laws, regulations, applicable building codes, and applicable Florida Building Code. CONTRACTOR warrants all Work against defects for a period of one (1) year (unless longer guarantees or warranties are provided for elsewhere in the Contract or at law in which case the longer periods of time shall prevail) from the date of Substantial Completion, regardless of whether the Work was performed by CONTRACTOR or any of its subcontractors.

19.2 CONTRACTOR shall repair or replace the defective Work and cure such defect within 5 days of receipt of written notice unless otherwise agreed to by the COUNTY and CONTRACTOR in writing. CONTRACTOR warrants such repaired or replaced Work for a period of one (1) year from the completion of the warranty work or the warranty period specified, whichever is longer. Should CONTRACTOR fail to timely cure such defects, COUNTY may proceed to perform the work at CONTRACTOR'S expense and may invoice CONTRACTOR for all costs associated with the work.

19.3 CONTRACTOR agrees to require that all of its subcontractors, suppliers and materialmen provide warranties in their agreements at least sufficient to satisfy CONTRACTOR'S obligations in this Agreement; and CONTRACTOR shall assign all such warranties to the COUNTY as a condition precedent to the receipt of final payment. CONTRACTOR agrees to defend and indemnify COUNTY against all fees and costs should CONTRACTOR fail to obtain the warranty protections required herein.

19.4 For all equipment that has a manufacturer's warranty, the CONTRACTOR shall assign such warranty to the COUNTY. The manufacturer's warranty period shall be concurrent with the CONTRACTOR'S warranty to the COUNTY. In the event that the equipment manufacturer or supplier is unwilling to provide such a warranty, the CONTRACTOR shall obtain a 2-year equipment warranty commencing at the time of acceptance of the equipment by the COUNTY.

ARTICLE 20 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

20.1 Documents and Samples at the Site. From and after commencement of the Construction Work, the CONTRACTOR shall maintain at the site one record copy of the Construction Documents, and any and all amendments thereto, in good order and marked to record changes and selections made during the construction. In addition, the CONTRACTOR shall maintain at the site approved shop drawings, product data, samples and similar required submittals. These shall be provided to COUNTY upon completion of the Work.

20.2 Shop Drawings, Product Data and Samples.

20.3 Shop Drawings, Product Data, Samples and similar submittals are required to demonstrate the way the CONTRACTOR proposes to conform the construction to the Contract Documents.

20.4 The CONTRACTOR shall review and take appropriate action upon Shop Drawings, Product Data, Samples and similar submittals. COUNTY may, in its sole discretion, review and review Shop Drawings, Product Data, Samples and similar submittals for compliance with the Contract Documents; if COUNTY requests to review the same, COUNTY will review them within fifteen (15) business days. COUNTY's approval shall not be unreasonably delayed or denied.

20.5 Responsibility. The CONTRACTOR shall not be relieved of responsibility for the deviations from requirements of the Contract Documents by COUNTY'S approval of Shop Drawings, Product Data, Samples or similar submittals unless the CONTRACTOR has specifically informed COUNTY of such deviation at the time of the submittal and COUNTY has given written approval to the specific deviation. The CONTRACTOR shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by COUNTY'S approval thereof.

ARTICLE 21 SAFETY

21.1 The CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The CONTRACTOR shall take all precautions and follow all procedures for the safety of, and shall provide all protection to prevent injury to, all persons involved in any way in the Work and all other persons, including, without limitation, the employees, agents, guests, visitors, invitees and licensees of the COUNTY and Users who may be affected thereby. The CONTRACTOR shall set forth in writing its safety precautions and programs in connection with the Work and submit the same to the COUNTY for review. The COUNTY may, but shall not be obligated to, make suggestions and recommendations to the CONTRACTOR with respect thereto.

21.2 All Work, whether performed by the CONTRACTOR, its subcontractor or sub-subcontractors, or anyone directly or indirectly employed by any of them, and all equipment, appliance, machinery, materials, tools and like items incorporated or used in the Work, shall be in compliance with, and conform to:

1. all applicable laws, ordinances, rules, regulations and orders of any public, quasi-public or other authority relating to the safety of persons and their protection against injury, specifically including, but in no event limited to, the Federal Occupational Safety and Health Act of 1970 and the Trench Safety Act, as amended and all state, Martin County and, where the Project is located in a municipality, municipal, rules and regulations now or hereinafter in effect;

and

2. all codes, rules, regulations and requirements of the COUNTY and its insurance carriers relating thereto. In the event of conflicting requirements, the more stringent shall govern.

21.3 Should the CONTRACTOR fail to provide a safe area for the performance of the Work or any portion thereof, the COUNTY shall have the right, but not the obligation, to suspend Work in the unsafe area. All costs of any nature resulting from the suspension, by whomsoever incurred, shall be borne by the CONTRACTOR.

21.4 The CONTRACTOR shall provide, or cause to be provided, to each worker on the Work site the proper safety equipment for the duties being performed by that worker and will not permit any worker on the Work site who fails or refuses to use the same. The COUNTY shall have the right, but not the obligation, to order the CONTRACTOR to send a worker home for the day or to discharge a worker for his or her failure to comply with safe practices, with which order the CONTRACTOR shall promptly comply.

21.5 Emergencies. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the COUNTY, is obligated to act, at its discretion, to prevent threatened damage, injury or loss. If the CONTRACTOR believes that additional Work done by it in an emergency which arose from causes beyond its control entitles it to an increase in the Contract Price or an extension of the Contract Time, it may make a claim therefore as provided in the Contract Documents.

ARTICLE 22 PROTECTION OF WORK AND PROPERTY

22.1 CONTRACTOR shall, throughout the performance of the Contract, maintain adequate and continuous protection of all completed Work and temporary facilities against loss or damage from whatever cause, shall protect the property of the COUNTY and third parties from loss or damage from whatever cause arising out of the performance of the Contract and shall comply with the requirements of the COUNTY and its insurance carriers and with all applicable laws, codes, rules and regulations with respect to the prevention of loss or damage to the property. COUNTY, its insurance carriers, or representatives may, but shall not be required to, make periodic patrols of the Work site as a part of its normal safety, loss control and security programs. In such event, however, the CONTRACTOR shall not be relieved of its aforesaid responsibilities and the COUNTY shall not assume, nor shall it be deemed to have assumed, any responsibility otherwise imposed upon the CONTRACTOR by this Contract.

22.2 Before the CONTRACTOR disposes of any existing improvements or equipment which are to be removed as a portion of the Work, and for which disposition is not specifically provided for elsewhere in the Contract Documents, CONTRACTOR shall contact the COUNTY and determine if the removal items are to be salvaged. Items to be salvaged by the COUNTY shall be neatly stockpiled or stored in a neat and acceptable manner at the construction site easily accessible to the COUNTY. Equipment and materials which will not be salvaged by the COUNTY shall become the property of the CONTRACTOR to be removed from the site and disposed of in an acceptable manner. To the extent CONTRACTOR intends to temporarily store materials at a site near or adjacent to the Project site prior to ultimate removal or disposal, CONTRACTOR must first obtain written authorization from the COUNTY, as well as the property owner.

22.3 Preservation of Trees. Those trees which are designated on the Drawings for preservation shall be carefully protected from damage. The CONTRACTOR shall erect and maintain such protections such as barricades, guards, and enclosures as is necessary for the protection of the trees during all construction operations. CONTRACTOR shall replace any and all trees damaged during construction activities (other than trees specified to be removed) at no expense to the COUNTY.

22.4 Preservation of Private Property. The CONTRACTOR shall exercise extreme care to avoid unnecessary disturbance of private property as applicable. Trees, shrubbery, gardens, lawn and other landscaping that must be removed shall be replaced and replanted to restore the construction easement to the condition existing prior to construction. All soil preparation procedures and replanting operations shall be under the supervision of a nurseryman experienced in such operations. Any vegetation requiring relocation, temporary or otherwise, which is damaged or destroyed, shall be replaced at no cost to the COUNTY. CONTRACTOR shall replace any and all such vegetation damaged during construction activities (other than vegetation specified to be removed) at no expense to the COUNTY.

22.5 Until final acceptance of the Work by the COUNTY pursuant to this Contract, the CONTRACTOR shall have full and complete charge and care of and, except as otherwise provided in this subparagraph, shall bear all risk of loss of, and injury or damage to, the Work or any portion thereof (specifically including COUNTY -furnished supplies, equipment or other items to be utilized in connection with, or incorporated in, the Work) from any cause whatsoever.

22.6 Manholes, fire alarms, etc., shall not be obstructed by CONTRACTOR. CONTRACTOR is to make no connections to or operate valves on water mains or otherwise interfere with the operation of the water system, without first giving written approval from the appropriate governmental entity.

ARTICLE 23 UTILITY COORDINATION

23.1 The CONTRACTOR shall be responsible for making all necessary arrangements with governmental departments, public utilities, public carriers, service companies and corporations owning or controlling roadways, railways, water, sewer, gas, electrical, cable television, telephone, and telegraph facilities such as pavements, tracks, piping, wires, cables, conduits, poles, guys, etc., including incidental structures connected therewith, that are encountered in the Work in order that such items may be properly shored, supported and protected, or the CONTRACTOR shall be solely responsible for coordinating their relocation. The CONTRACTOR shall give all proper notices, shall comply with requirements of such parties in the performance of its Work, shall permit entrance of such parties on the Work site in order that they may perform their necessary Work, and shall pay all charges and fees made by such parties for this Work. The CONTRACTOR'S attention is called to the fact that there may be delays on the Project due to Work to be done by governmental departments, public utilities, and others in repairing or moving poles, conduits, etc. The CONTRACTOR shall cooperate with the above parties, in every way possible, so that the construction can be completed in the least possible time.

23.2 At all points where the Work constructed by CONTRACTOR connects to existing utilities and services, the actual Work of making the necessary connection to the existing service or

utility shall be arranged for by CONTRACTOR at no expense to COUNTY (unless specifically indicated otherwise). Services and utilities included within (but not limited to) this responsibility are roads, ditches, electrical, sewer, mechanical utilities, water, fencing, etc. Connections shall be made at a time that will result in the least possible interference with existing services.

23.3 High-Voltage Electric Lines. Contractor must visually survey the area and take the necessary steps to identify all high-voltage electric lines overhead and underground prior to commencing construction to determine whether the construction of any proposed improvements will bring any person, tool, machinery, equipment or object closer to local electric utility's power lines than the OSHA-prescribed limits. If necessary, CONTRACTOR must make arrangements with local electric utility to either deenergize and ground the facilities or relocate them. CONTRACTOR must do this before allowing any construction near power lines. If it is necessary for Contractor or subcontractor to operate or handle cranes, digging apparatus, draglines, mobile equipment, or any other equipment, tools or materials in such a manner that they might come closer to underground or overhead power lines than is permitted by local, state or federal regulations, CONTRACTOR or subcontractor must notify local electric utility in writing of such planned operation prior to the commencement thereof and make all necessary arrangements with the local electric utility in order to carry out the work in a safe manner. Any work in the vicinity of the electric lines should be suspended until these arrangements are finalized and implemented. The CONTRACTOR shall be required to complete a "Notification of FPL Facilities" form prior to the commencement of Work.

ARTICLE 24 HAZARDOUS MATERIALS

CONTRACTOR shall obtain all required Federal, State and local permits and licenses and shall be responsible for the safe and proper handling, transporting, storage and use of any explosive or hazardous materials brought onto or encountered within the site, and at its expense, make good any damage caused by its handling, transporting, storage and use. The CONTRACTOR will notify the COUNTY immediately if explosive or hazardous materials are encountered on the Project site. Transporting explosive or hazardous materials onto the site will require prior written approval from the COUNTY. CONTRACTOR shall maintain and post as necessary Material Hazard Data Sheets for all applicable Hazardous Materials used in the course of its work. In the event that hazardous material is improperly handled or stored by the CONTRACTOR, its subcontractors, any sub-subcontractors, or any employee or agent of any of the aforementioned which results in contamination of the site, CONTRACTOR shall immediately notify the COUNTY and the appropriate governmental authority and shall take whatever action is necessary or desirable to remediate the contamination at the CONTRACTOR'S sole cost and expense.

ARTICLE 25 AUDIT

The CONTRACTOR agrees that the COUNTY, or any of its duly authorized representatives shall have access to and the right to examine any and all books, documents, papers, and records of the CONTRACTOR, and may at its option conduct an audit of the CONTRACTOR'S financial books and records concerning this Project. The CONTRACTOR agrees that payment(s) made under this Agreement shall be subject to reduction for amounts charged thereto which are found on the basis of audit examination to constitute non-allowable costs under this Agreement. The CONTRACTOR shall promptly refund by check payable to the

COUNTY the amount of such reduction of payments. All required records shall be maintained until the later of an audit is completed and all questions arising therefore are resolved, or six (6) years after completion of the Work and issuance of the final completion certificate.

ARTICLE 26 PUBLIC RECORDS

26.1 The CONTRACTOR shall comply with the provisions of Chapter 119, Fla. Stat. (Public Records Law), in connection with this Agreement and shall provide access to public records in accordance with §119.0701, Fla. Stat. and more specifically Contractor shall:

26.1.1 Keep and maintain public records required by the County to perform the Agreement.

26.1.2. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat. or as otherwise provided by law.

26.1.3. 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 Agreement term and following completion of the Agreement if the CONTRACTOR does not transfer the records to the County.

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

26.1.5 All blueprints, schematics and design drawings received by the CONTRACTOR from the COUNTY shall not be re-copied or forwarded to another party unless documented permission has been received by COUNTY. Documents shall be documented as retained, returned, or destroyed by CONTRACTOR accepting said documents. In accordance with the Florida Public Records Act, these documents are exempt from Public Disclosure as described in 119.071, Fla. Stat., general exemptions from inspection or copying of public records.

26.2 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (772) 419-6959, public_records@martin.fl.us, 2401 SE MONTEREY ROAD, STUART, FL 34996.

26.3 Failure to comply with the requirements of this Article shall be deemed a default as defined under the terms of this Agreement and constitute grounds for termination.

ARTICLE 27 ASSIGNMENT

27.1 CONTRACTOR shall not assign, transfer, convey or otherwise dispose of the contract or its right, title or interest in or to the same or any part thereof, or allow legal action to be brought in its name for the benefit of others, without previous written consent of the COUNTY and SURETIES.

27.2 If for any reason the COUNTY terminates its agreement with the CONTRACTOR, the CONTRACTOR hereby assigns this Agreement to the COUNTY. CONTRACTOR shall include in each of its subcontracts language that requires its Subcontractors to agree to such assignment and to perform their responsibilities and to fully complete the work required by this Contract directly for the COUNTY.

ARTICLE 28 ATTORNEY'S FEES AND COSTS

28.1 In the event the CONTRACTOR defaults in the performance of any of the terms, covenants and conditions of this Agreement, the CONTRACTOR agrees to pay all damages and costs incurred by the COUNTY in the enforcement of this Agreement, including reasonable attorney's fees, expert fees, court costs and all expenses, even if not taxable as court costs, including, but not limited to any costs from any state court or federal court proceedings, whether in a trial court or in an appellate court.

28.2 Except as otherwise provided in this Agreement, the parties expressly agree that each party will bear its own attorney's fees incurred in connection with this Agreement.

ARTICLE 29 NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing in at least one of the following methods:

- (a) Certified United States Mail, postage prepaid, return receipt requested; or
- (b) Overnight courier, such as by FedEx or UPS, with a request for receipt acknowledgment; or
- (c) Hand-delivery to a person authorized to accept delivery of notice with a request for a receipt acknowledgment; or
- (d) Email if and only if agreed to in advance by COUNTY and CONTRACTOR in writing specifying the email addresses, and if so agreed, the email shall a request receipt acknowledgement.

The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

FOR COUNTY:

Purchasing Division
Martin County
2401 SE Monterey Rd.
Stuart, FL 34996

WITH A COPY TO:

County Attorney
Martin County
2401 SE Monterey Rd.
Stuart, FL 34996

FOR CONTRACTOR:

One Call Florida, Inc.
7804 SW Ellipse Way
Stuart, FL 34997

CONTRACTOR shall be required to notify the County, in writing, whenever there is a change in the address of CONTRACTOR (to the place) for which notice is to be sent (giving notice), as required in this section. In the event CONTRACTOR fails to maintain a current address on record with the County as required herein, County shall be deemed to have notified CONTRACTOR by using the last known address on record and County shall not have any responsibility or obligation to investigate the validity of the address that CONTRACTOR has provided. As a result, CONTRACTOR agrees to hold County harmless and defend same for any action or occurrence or non-occurrence as a result of CONTRACTOR not receiving notice due to CONTRACTOR's failure to update its address for notification.

All notices sent in accordance with this section shall be deemed to be effective upon receipt or refusal of same unless otherwise expressly provided in this Agreement.

ARTICLE 30 RESOLUTION OF CLAIMS AND DISPUTES; CERTIFIED CLAIMS

30.1 **Mediation.** As a condition precedent to the filing of any legal proceedings, the parties shall endeavor to resolve claim disputes or other matters in question by mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The party shall, by mutual agreement, select a mediator within 15 days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the COUNTY shall select the mediator, who, if selected solely by the COUNTY, shall be a mediator certified by the Supreme Court of Florida. The mediator's fee shall be paid in equal shares by each party to the mediator. If a party fails to comply with this section, including, but not limited to, filing a lawsuit without mediating before filing the lawsuit, the party in violation shall be liable for the reasonable attorneys' fees and costs of the other party in enforcing this provision, and such amounts shall be awarded by the Court.

30.2 **Law, Jurisdiction, Venue, Waiver of Jury Trial.** This agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive

venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Nineteenth Judicial Circuit in and for Martin County, Florida. If any claim arising from, related to or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. BY ENTERING INTO THIS AGREEMENT, THE PARTIES HERETO EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO AN ADVISORY JURY. If a party fails to withdraw a request for jury trial or for an advisory jury in a lawsuit arising out of this agreement after written notice by the other party of a violation of this section, the party making the request for jury trial or advisory jury shall be liable for the reasonable attorneys' fees and court costs of the other party in contesting the request for jury trial or advisory jury, and such amounts shall be awarded by the Court in adjudicating the motion.

30.3 Certified claims. If CONTRACTOR submits a claim seeking an increase in the Contract Price or an increase in the Contract Time for substantial or final completion or both, upon the request of the COUNTY in its sole discretion, CONTRACTOR shall, within thirty (30) days, submit to COUNTY a "certified claim," that is, a claim made in writing under oath by a person duly authorized by the CONTRACTOR, and shall contain a statement that:

- (i) The claim is made in good faith;
- (ii) The claim's supporting data are accurate and complete to the best of the person's knowledge and belief;
- (iii) The amount of the claim accurately reflects the amount that the claimant believes is due from the COUNTY; and
- (iv) The certifying person is duly authorized by the claimant to certify the claim.

FAILURE TO PROVIDE THE REQUESTED CERTIFICATION WITHIN THE PRESCRIBED PERIOD OF THIRTY (30) DAYS SHALL CONSTITUTE A FORFEITURE OF THE ENTIRE CLAIM.

30.4 False, fraudulent, or inflated claim. If a court finds a certified claim is false, fraudulent, or inflated, whether in whole or in part, CONTRACTOR shall:

- (i) Be liable to the COUNTY for an amount equal to three (3) times the amount of the claim that is false, fraudulent, or inflated;
- (ii) Immediately, fully, and irrevocably forfeit the entire amount of the claim;
- (iii) Be liable to the COUNTY for all costs and fees (including, without limitation, reasonable attorneys' fees, court costs, expert fees, and consulting fees) incurred by the COUNTY to review, defend, and evaluate the claim; and
- (iv) Be subject to debarment from COUNTY contracting for a period not to exceed five (5) years.

30.5 Innocent claimant, notice. Notwithstanding the foregoing, CONTRACTOR is an innocent

claimant and not liable for a false, fraudulent, or inflated claim if CONTRACTOR submitted a certified claim to the COUNTY reasonably believing that such claim was free of any material misstatements, or any exaggerated, inflated, or unsubstantiated assertions or damages and had no reasonable basis to doubt the truth, veracity, or accuracy of such claim at the time it was submitted, and within fifteen (15) days of discovering the falsity of the claim, took immediate steps to modify, correct, or withdraw such claim and provided the COUNTY with immediate written notice thereof.

ARTICLE 31 MISCELLANEOUS

31.1 Taxes. The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The CONTRACTOR shall not be exempt from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONTRACTOR authorized to use the COUNTY'S Tax Exemption Number in securing such materials. The CONTRACTOR shall be responsible for payment of all federal, state, and local taxes and fees applicable to the Work and same shall be included in the Contract Price.

31.2 Pledge of Credit. The CONTRACTOR shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any Agreement, debt, obligation, judgment, lien or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of the Agreement.

31.3 Entirety of Agreement. All prior and contemporaneous negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein are merged into this Agreement. No modification, amendment or alteration of this Agreement may be made unless made in writing pursuant to the terms of this Agreement.

31.4 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, then the remaining provisions survive and are fully binding and enforceable.

31.5 Copies. Multiple copies of this Agreement may be fully executed by all parties, each of which shall be deemed to be an original. Faxed, photostatic, or electronically scanned copies of the fully executed Agreement shall be as effective and authentic as the original for any purpose including but not limited to the enforcement of any provision of this Agreement.

(continued on next page)

IN WITNESS WHEREOF, the COUNTY and the CONTRACTOR have executed this Agreement as of the last date written below.

REVIEWED BY

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**



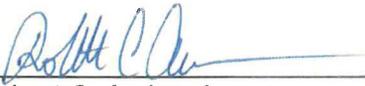
Chad Cianciulli
Fire Rescue Chief



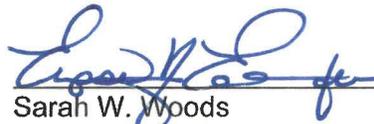
Don G. Donaldson, P.E.
County Administrator

ONE CALL FLORIDA, INC.

**APPROVED AS TO FORM & LEGAL
SUFFICIENCY**



Robert C. Ambrosius
President



Sarah W. Woods
County Attorney

ATTACHMENT 2

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

The administration of resources awarded by the Department of Financial Services (Department) to the Grantee may be subject to audits and/or monitoring by the Department, as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the Grantee agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Grantee is appropriate, the Grantee agrees to comply with any additional instructions provided by Department staff to the Grantee regarding such audit. The Grantee further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

Part I: Federally Funded

This part is applicable if the Grantee is a state or local government or a nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A grantee that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this form lists the federal resources awarded through the Department by this agreement. In determining the federal awards expended in its fiscal year, the Grantee shall consider all sources of federal awards, including federal resources received from the Department. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the Grantee conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the Grantee shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A grantee that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the Grantee expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Grantee resources obtained from other than federal entities).

Part II: State Funded

1. In the event that the Grantee expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Grantee (for fiscal years ending June 30, 2017, or thereafter), the Grantee must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the Grantee shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.

2. For the audit requirements addressed in Part II, paragraph 1, the Grantee shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the Grantee expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, or thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the Grantee expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the Grantee's resources obtained from other than state entities).

Part III: Other Audit Requirements

N/A

Part IV: Report Submission

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR §200.512, by or on behalf of the Grantee directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of the Grantee directly to each of the following:

- a. The Department at each of the following addresses:

Electronic copies (preferred): SFMGrant@myfloridacfo.com

or

Paper (hard copy):
Ginie Chibuzor
Department of Financial Services
200 East Gaines Street
Tallahassee, Florida 32399-0340

- b. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

3. Any reports, management letters, or other information required to be submitted to the Department pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
4. Grantees, when submitting financial reporting packages to the Department for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Grantee in correspondence accompanying the reporting package.

Part V: Record Retention

The Grantee shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this agreement for a period of five (5) years from the date the audit report is issued, and shall allow the Department, or its designee, the CFO, or Auditor General access to such records upon request. The Grantee shall ensure that audit working papers are made available to the Department, or its designee, the CFO, or Auditor General upon request for a period of five (5) years from the date the audit report is issued, unless extended in writing by the Department.

AUDIT REQUIREMENTS FOR AWARDS OF
STATE AND FEDERAL FINANCIAL ASSISTANCE

EXHIBIT 1

**Federal Resources Awarded to the Grantee
Pursuant to this Agreement Consist of the Following:**

1. Federal Program A:

N/A

2. Federal Program B:

N/A

**Compliance Requirements Applicable to the Federal Resources
Awarded Pursuant to this Agreement are as Follows:**

1. Federal Program A:

N/A

2. Federal Program B:

N/A

**State Resources Awarded to the Grantee
Pursuant to this Agreement Consist of the Following:**

Matching Resources for Federal Programs:

1. Federal Program A:

N/A

2. Federal Program B:

N/A

Subject to Section 215.97, F.S.:

1. State Project A:

State Project: Local Government Fire Service Grants
State Awarding Agency: State of Florida, Department of Financial Services
Catalog of State Financial Assistance Title and Number: Local Government Fire Service Grants,
43.009
Amount: \$1,000,000.00

2. State Project B:

N/A

**Compliance Requirements Applicable to State Resources Awarded
Pursuant to this Agreement Are as Follows:**

The compliance requirements are as stated in Grant Agreement #FM909 between the Grantee and the Department, entered in State Fiscal Year 2023-2024.

Attachment 3
Index of Applicable Laws and Regulations

1. Statutory Requirements:

Chapter 112, F.S. (conflict of interest)
Chapter 119, F.S. (public records and exceptions to disclosure)
Sections 11.062 and 216.347, F.S. (prohibitions on the use of state funds for lobbying purposes)
Section 216.1366, F.S. (inspection of records)
Section 286.101, F.S. (foreign gifts and contracts)
Section 286.25, F.S. (sponsorship)
Section 287.133, F.S. (convicted vendor list)
Section 287.134, F.S. (discriminatory vendor list)
Section 287.137, F.S. (antitrust violator vendor list)
Americans with Disabilities Act
Immigration and Nationality Act

2. Audit Requirements:

Section 20.055, F.S. (audit investigations)
Section 215.34, F.S. (return or recoupment of funds)
Section 215.97, F.S., Florida Single Audit Act
Section 215.971, F.S., Agreements Funded with Federal or State Assistance

3. Financial Requirements:

Section 215.422, F.S. (payments from state funds)
Section 273.02, F.S. (nonexpendable tangible personal property)
Section 287.05805, F.S. (if funding is used for real property purchase or improvement)
Section 287.0585, F.S. (payments to subcontractors)
Rule 60A-1.031, F.A.C. (MyFloridaMarketPlace)
Chief Financial Officer Memoranda Nos. 1, 2, and 4 (effective July 1, 2020)



DIVISION OF
STATE FIRE MARSHAL
FLORIDA DEPARTMENT OF FINANCIAL SERVICES



FCO Grant Quarterly Status Report

Instructions: This form is to be completed by the grantee no less than once per quarter after the execution of the agreement and is to be done until all funds are dispersed. If you are also requesting reimbursement, please complete the reimbursement request form and attach the required documentation.

Grantee:	Reporting Period:	Contract Number:
Project Description:		
Attachments (Check):	Notice to Proceed <input type="checkbox"/>	Photos <input type="checkbox"/>
Reimbursement Request <input type="checkbox"/>	Cert. of Occupancy <input type="checkbox"/>	Inspection Reports <input type="checkbox"/>
Other:		
1. Current Project Phase – Mark active phases and, if applicable, list percentage complete		
Land Purchased <input type="checkbox"/>	Design <input type="checkbox"/>	Site Prep <input type="checkbox"/>
Construction <input type="checkbox"/>	Inspection <input type="checkbox"/>	Project Complete <input type="checkbox"/>
2. Work Completed This Period:		
3. Work Anticipated Next Period:		
4. Problem Areas/Other Comments (Plan Revisions, Delays, Difficulties, etc):		
Grantee	Grantee Representative	
	I certify that the information provided above is true and correct per the terms of the Grant Agreement.	
	Date	Printed Name/Title
		Signature
Department	Comments/Notes	
	Review Date	Site Visit <input type="radio"/> Yes <input type="radio"/> No
		Contract Manager Signature

FOR REFERENCE ONLY
DO NOT USE



DIVISION OF
STATE FIRE MARSHAL
 FLORIDA DEPARTMENT OF FINANCIAL SERVICES



Grant Agreement

Attachment 5 - Grantee Reimbursement Request

I, _____, on behalf of
 (Print name of Grantee's Grant Manager)

_____, do hereby certify for
 (Print name of Grantee)

Contract No. _____ and Reimbursement Request No. _____ that:

- 1) The costs being claimed on this request are specifically for the Project represented to the State in the budget appropriation.
- 2) The costs being claimed on this request are for one or more of the construction components listed in the deliverable in Section 4, Deliverable, of the Scope of Work.
- 3) The Grantee has paid such costs under the terms and provisions of contracts relating directly to the Project.
- 4) The costs being claimed on this request were incurred after the date specified in Section C, Performance Period, of the Agreement document, and prior to the end of the Performance Period.
- 5) A duplicate invoice for the same services, supplies, materials, and/or labor set forth in the attached invoice has not been submitted, and will not be submitted, to another funding source for this Project.

FOR REFERENCE ONLY
DO NOT USE

 Signature of Grantee's Grant Manager

 Print Name



DIVISION OF
STATE FIRE MARSHAL
 FLORIDA DEPARTMENT OF FINANCIAL SERVICES



Reimbursement Detail

Request #	Grantee:	
Submit Date:	Grantee Address:	
Contract #	Grantee Contact:	
Deliverable:		

Vendor	Invoice #	Invoice Date	Invoice Description	Reimbursement Requested
			Request Total	\$
			Total Previous Payments	\$
			Total Grant Amount	\$
			<i>Remaining Funds</i>	\$

FOR REFERENCE ONLY
DO NOT USE

Grantee Certification: Sign here and complete the Grantee's Certification of Reimbursement Request on Page 1 to certify that the amount being requested for reimbursement is true and valid in accordance with the Agreement.

**Grantee Signature
& Date:**

SFM Use

Contract Manager
Receipt:

Component Checklist:	Vendor Invoice(s)	Payment	Tasks Performed	Funds Reconciled
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DEPARTMENT OF FINANCIAL SERVICES
Public Records Requirements

Addendum A

1. Public Records Access Requirements.

- a. If the Contractor is acting on behalf of the Department in its performance of services under the Contract, the Contractor must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by the Contractor in conjunction with the Contract (Public Records), unless the Public Records are exempt from public access pursuant to section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Contract if the Contractor refuses to allow public access to Public Records as required by law.

2. Public Records Requirements Applicable to All Contractors.

- a. For purposes of the Contract, the Contractor is responsible for becoming familiar with Florida's Public Records law, consisting of chapter 119, F.S., section 24(a) of Article I of the Florida Constitution, or other applicable state or federal law (Public Records Law).
- b. All requests to inspect or copy Public Records relating to the Contract must be made directly to the Department. Notwithstanding any provisions to the contrary, disclosure of any records made or received by the State in conjunction with the Contract is governed by Public Records Law.
- c. If the Contractor has a reasonable, legal basis to assert that any portion of any records submitted to the Department is confidential, proprietary, trade secret, or otherwise not subject to disclosure ("Confidential" or "Trade Secret") under Public Records Law or other legal authority, the Contractor must simultaneously provide the Department with a separate redacted copy of the records the Contractor claims as Confidential or Trade Secret and briefly describe in writing the grounds for claiming exemption from the Public Records Law, including the specific statutory citation for such exemption. The un-redacted copy of the records must contain the Contract name and number and must be clearly labeled "Confidential" or "Trade Secret." The redacted copy of the records should only redact those portions of the records that the Contractor claims are Confidential or Trade Secret. If the Contractor fails to submit a redacted copy of records it claims are Confidential or Trade Secret, such action may constitute a waiver of any claim of confidentiality.
- d. If the Department receives a Public Records request, and if records that have been marked as "Confidential" or "Trade Secret" are responsive to such request, the Department will provide the Contractor-redacted copies to the requester. If a requester asserts a right to the portions of records claimed as Confidential or Trade Secret, the Department will notify the Contractor that such an assertion has been made. It is the Contractor's responsibility to assert that the portions of records in question are exempt from disclosure under Public Records Law or other legal authority. If the Department becomes subject to a demand for discovery or disclosure of the portions of records the Contractor claims as Confidential or Trade Secret in a legal proceeding, the Department will give the Contractor prompt notice of the demand, when possible, prior to releasing the portions of records the Contractor claims as Confidential or Trade Secret (unless disclosure is otherwise prohibited by applicable law). The Contractor shall be responsible for defending its determination that the redacted portions of its records are Confidential or Trade Secret. No right or remedy for damages against the Department arises from any disclosure made by the Department based on the Contractor's failure to promptly legally protect its claim of exemption and commence such protective actions within ten days of receipt of such notice from the Department.
- e. If the Contractor claims that the records are "Trade Secret" pursuant to section 624.4213, F.S., and all the requirements of section 624.4213(1), F.S., are met, the Department will respond to the Public Records Request in accordance with the provisions specified in that statute.
- f. The Contractor shall ensure that exempt or confidential and exempt Public Records are not disclosed except as permitted by the Contract or by Public Records Law.

Addendum A

3. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

If the Contractor is a “contractor” as defined in section 119.0701(1)(a), F.S., the Contractor shall:

- a. Keep and maintain Public Records required by the Department to perform the service.
- b. Upon request, provide the Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, F.S., or as otherwise provided by law.
- c. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the Public Records to the Department.
- d. Upon completion of the Contract, transfer, at no cost, to the Department all Public Records in possession of the Contractor or keep and maintain Public Records required by the Department to perform the service. If the Contractor transfers all Public Records to the Department upon completion of the Contract, the Contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the Contractor keeps and maintains Public Records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the Department, upon request from the Department’s custodian of Public Records, in a format specified by the Department as compatible with the information technology systems of the Department. These formatting requirements are satisfied by using the data formats as authorized in the Contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the Contractor is authorized to access.
- e. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT PUBLIC RECORDS AT:**

Telephone: (850) 413-3149
Email: PublicRecordsRequest@myfloridacfo.com
Mailing Address: The Department of Financial Services
Office of Open Government
PL-11, The Capitol
Tallahassee, Florida 32399-0301

A Contractor who fails to provide the Public Records to the Department within a reasonable time may be subject to penalties under section 119.10, F.S.