



**City of Lauderdale Lakes**  
Office of the City Clerk  
4300 Northwest 36 Street - Lauderdale Lakes, Florida 33319-5599  
(954) 535-2705 - Fax (954) 535-0573

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**SPECIAL CITY COMMISSION MEETING AGENDA**  
**City Commission Chambers**  
**January 21, 2026**  
**10:00 AM**

**REMOTE MEETING NOTICE**

*Please join the meeting via Zoom*  
<https://us06web.zoom.us/j/85302547783>

*Please join the meeting via telephone:*  
1 305 224 1968 or 1 312 626 6799  
Meeting ID: 853 0254 7783

**1. CALL TO ORDER**

**2. ROLL CALL**

**3. STATEMENT OF PURPOSE OF THE SPECIAL MEETING**

**A. STATEMENT OF PURPOSE OF THE SPECIAL MEETING**

Consideration of Resolution 2026-006 authorizing the Mayor and City Commission to award a contract ATC Engineering, Inc. for an amount not to exceed One million, four hundred and sixty nine thousand, seventy one dollars and ten cents (1,469,071.10) for Citywide Drainage Improvements on NW 39th Street from NW 34 Way to NW 31 Avenue.

**4. CONSIDERATION OF BUSINESS CONTAINED IN THE CALL FOR SPECIAL MEETING**

**A. RESOLUTION 2026-006 AUTHORIZING THE MAYOR AND CITY COMMISSION TO AWARD A CONTRACT FUNDED BY THE RESILIENCE GRANT (FDEP AGREEMENT# 22FRP22) TO ATC ENGINEERING INC. FOR AN AMOUNT NOT TO EXCEED ONE MILLION, FOUR HUNDRED SIXTY-NINE THOUSAND, SEVENTY-ONE DOLLARS AND TEN CENTS (\$1,469,071.10 FOR CITYWIDE DRAINAGE IMPROVEMENTS (NW 39TH STREET FROM NW 34 WAY TO NW 31 AVENUE) PROJECT**

This resolution authorizes and awards a contract funded by the Resilience Grant (FDEP Agreement# 22FRP22) to ATC Engineering Inc. for an amount not to exceed One million, four hundred sixty-nine thousand, seventy-one dollars and ten cents (\$1,469,071.10) as the Responsible, Responsive Lowest vendor following a solicitation on the City's OpenGov platform ITB26-6310-18B Citywide Drainage Improvements.

**5. CONSIDERATION OF OTHER MATTERS BY UNANIMOUS CONSENT**

**6. ADJOURNMENT**

**PLEASE TURN OFF ALL CELL PHONES DURING THE MEETING**

If a person decides to appeal any decision made by the Board, Agency, or Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such

purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (FS 286.0105)

Any person requiring auxiliary aids and services at this meeting may contact the City Clerk's Office at (954) 535-2705 at least 24 hours prior to the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service by using the following numbers: 1-800-955-8770 or 1-800-955-8771.

Any invocation that is offered before the official start of the commission meeting shall be the voluntary offering of a private person, to and for the benefit of the commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the commission or the city staff, and do not necessarily represent their individual religious beliefs, nor are the views and beliefs expressed by an invocation speaker intended to suggest the city's allegiance to or preference for any particular religion, denomination, faith, creed or belief. Persons in attendance at the city commission meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered. You may exit the city commission chambers and return upon completion of the opening invocation if you do not wish to participate in or witness the opening invocation.

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**Mayor Veronica Edwards Phillips - Vice Mayor Sharon Thomas**

**Commissioner Tycie Causwell - Commissioner Easton Harrison - Commissioner Karlene Maxwell-Williams**

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## CITY OF LAUDERDALE LAKES

### Agenda Cover Page

Fiscal Impact:

Contract Requirement:

Title
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#### STATEMENT OF PURPOSE OF THE SPECIAL MEETING

Summary
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Consideration of Resolution 2026-006 authorizing the Mayor and City Commission to award a contract ATC Engineering, Inc. for an amount not to exceed One million, four hundred and sixty nine thousand, seventy one dollars and ten cents (1,469,071.10) for Citywide Drainage Improvements on NW 39th Street from NW 34 Way to NW 31 Avenue.

Staff Recommendation
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**Background:**

**Funding Source:**

**Fiscal Impact:**

**Sponsor Name/Department:**

**Meeting Date:** 1/21/2026

## CITY OF LAUDERDALE LAKES

### Agenda Cover Page

Fiscal Impact: Yes

Contract Requirement: Yes

#### Title

RESOLUTION 2026-006 AUTHORIZING THE MAYOR AND CITY COMMISSION TO AWARD A CONTRACT FUNDED BY THE RESILIENCE GRANT (FDEP AGREEMENT# 22FRP22) TO ATC ENGINEERING INC. FOR AN AMOUNT NOT TO EXCEED ONE MILLION, FOUR HUNDRED SIXTY-NINE THOUSAND, SEVENTY-ONE DOLLARS AND TEN CENTS (\$1,469,071.10 FOR CITYWIDE DRAINAGE IMPROVEMENTS (NW 39TH STREET FROM NW 34 WAY TO NW 31 AVENUE) PROJECT

#### Summary

This resolution authorizes and awards a contract funded by the Resilience Grant (FDEP Agreement# 22FRP22) to ATC Engineering Inc. for an amount not to exceed One million, four hundred sixty-nine thousand, seventy-one dollars and ten cents (\$1,469,071.10) as the Responsible, Responsive Lowest vendor following a solicitation on the City's OpenGov platform ITB26-6310-18B Citywide Drainage Improvements.

#### Staff Recommendation

#### Background:

The City of Lauderdale Lakes Citywide Drainage Improvements Project- NW 39 Street from NW 34 Way to NW 31 Avenue includes installation of new drainage system and also the repair and/or replacement of the roadway drainage system including the swale improvements on NW 39 Street project area in the City of Lauderdale Lakes. The successful completion of the project will improve the drainage system on NW 39 Street project area.

The solicitation summary is as follows:

Advertised on the city's OpenGov Platform on.. December 15, 2025 2:00 PM  
All bids were due on.....January 9, 2026, 10:00 AM  
Vendors Notified.....16,410  
Legal Ads posted in the Sun Sentinel Papers...November 18, 20 and 23, 2025  
Downloaders.....52  
Submissions.....8

The submissions received are as follows:

#	VENDOR	BID AMOUNT	LOCATION
1	BACO Engineering Contractor, Inc	\$1,449,978.40	Greenacres, FL 33467
2	ATC Engineering Inc	\$1,469,071.10	Miami, FL 33125
3	Wrangler Construction	\$1,596,979.03	MIAMI, FL 33186
4	FG Construction, LLC	\$2,017,168.26	Tamarac, FL 33309
5	JD Backhoe, Inc.	\$2,160,134.66	Davie, FL 33314
6	Pabon Engineering, Inc	\$2,202,572.00	Miami, FL 33186
7	Homestead Concrete & Drainage	\$2,296,282.10	Homestead, FL 33030
8	Johnson-Davis Incorporated	\$2,401,298.00	Lantana, FL 33462

The following vendor was found non-responsive:

#	Firm	Note
1	BACO Engineering Contractor, Inc	Did not provide Bond as specified in Solicitation

ATC Engineering Inc has been found to be the Responsible, Responsive Lowest vendor following the evaluation process.

City staff is recommending award of this contract in accordance with the City's Procurement Code, Section 82-356(A)(1) of the Lauderdale lakes procurement code which allows Competitive sealed bidding.

**Funding Source:**

\$1,278,146.00 - Resilient Florida Grant Program funded by the Florida Division of Emergency Management (FDEP) and the remaining \$190,925.00 from city's stormwater fund.

**Fiscal Impact:**

The project will be funded by Resilient Florida Grant Program and City's stormwater funds.

**Sponsor Name/Department:** Maqsood M. Nasir, Director of Engineering Services, Aazam Piprawala, Procurement Administrator

**Meeting Date:** 1/21/2026

**ATTACHMENTS:**

Description	Type
<input type="checkbox"/> Resolution 2026-006 Awarding Contract Award To ATC Engineering Inc., For The Installation Of Citywide Drainage Improvements In An Amount Not To Exceed (\$1,469,071.10)	Resolution
<input type="checkbox"/> Exhibit-A	Exhibit
<input type="checkbox"/> Exhibit-B	Backup Material

1 RESOLUTION 2026-006

2  
3 A RESOLUTION OF THE CITY COMMISSION OF LAUDERDALE LAKES,  
4 FLORIDA; IN ACCORDANCE WITH SECTION 82-356 (a)(1) OF THE  
5 LAUDERDALE LAKES PROCUREMENT CODE, AWARDED AND  
6 AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST,  
7 RESPECTIVELY, THAT CERTAIN CONTRACT AWARD TO ATC ENGINEERING  
8 INC., AS THE LOWEST, RESPONSIVE, AND MOST RESPONSIBLE BIDDER IN  
9 THAT CERTAIN COMPETITIVELY SEALED INVITATION TO BID (ITB) 26-6310-  
10 18B PROVIDING FOR THE INSTALLATION OF CITYWIDE DRAINAGE  
11 IMPROVEMENTS; IN AN AMOUNT NOT TO EXCEED ONE MILLION FOUR  
12 HUNDRED SIXTY NINE THOUSAND SEVENTY ONE AND 10/100 DOLLARS  
13 (\$1,469,071.10); A DRAFT COPY OF SAID CONTRACT IS ATTACHED HERETO  
14 AS **EXHIBIT A**; A COPY OF THE PRELIMINARY EVALUATION TABULATION IS  
15 ATTACHED HERETO AS **EXHIBIT B**; COPIES OF EACH OF WHICH ARE  
16 AVAILABLE FOR INSPECTION IN THE OFFICE OF THE CITY CLERK;  
17 PROVIDING FOR THE ADOPTION OF RECITALS; PROVIDING FOR  
18 INSTRUCTIONS TO THE DEPUTY CITY CLERK; PROVIDING AN EFFECTIVE  
19 DATE.  
20

21 WHEREAS, the City of Lauderdale Lakes ("City") Citywide Drainage Improvements Project  
22 – NW 39th Street from NW 34th Way to NW 31st Avenue – includes the installation of a new  
23 drainage system and also the repair and/or replacement of the roadway drainage system  
24 including the swale improvements on NW 39th Street project area in the City;

25 WHEREAS, the successful completion of the project will improve the drainage system in  
26 the NW 39th Street project area;

27 WHEREAS, the City issued an Invitation to Bid (ITB) No. 26-6310-18B seeking Citywide  
28 Drainage Improvements;

29 WHEREAS, the ITB was advertised on the City's OpenGov Platform on December 15, 2025,  
30 at 2:00 PM;

31 WHEREAS, all bids were due on January 9, 2026, at 10:00 AM;

32 WHEREAS, sixteen thousand four hundred and ten (16,410) vendors were notified;

WHEREAS, there were legal advertisements posted in the Sun Sentinel on November 18, 2025, November 20, 2025, and November 23, 2025;

WHEREAS, there were fifty-two (52) downloaders and eight (8) submissions;

WHEREAS, the submissions received were as follows:

#	VENDOR	BID AMOUNT	LOCATION
1	BACO Engineering Contractor, Inc	\$1,449,978.40	Greenacres, FL 33467
2	ATC Engineering Inc	\$1,469,071.10	Miami, FL 33125
3	Wrangler Construction	\$1,596,979.03	MIAMI, FL 33186
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8	Johnson-Davis Incorporated	\$2,401,298.00	Lantana, FL 33462

WHEREAS, BACO Engineering Contractor, Inc. was found to be non-responsive as they did not provide the Bond as required by the Solicitation documents;

WHEREAS, following the evaluation process, City Staff determined ATC Engineering Inc. ("Contractor") to be the lowest, responsive and most responsible vendor;

WHEREAS, City Staff is recommending award of this contract to ATC Engineering Inc. in accordance with Section 82-356(a)(1) of the Lauderdale Lakes Procurement Code, providing for procurement of goods and services through competitive sealed bidding; and

WHEREAS, the funding source for this project is the Resilient Florida Grant Program funded by the Florida Division of Emergency Management in an amount not to exceed One

1 Million Two Hundred Seventy-Eight Thousand One Hundred Forty-Six and No/100 Dollars  
2 (\$1,278,146.00) and the remaining funding coming from the City's Stormwater Fund in an  
3 amount not to exceed One Hundred Ninety Thousand Nine Hundred Twenty-Five and No/100  
4 Dollars (\$190,925.00).

5 NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF  
6 LAUDERDALE LAKES AS FOLLOWS:

7 SECTION 1. ADOPTION OF RECITALS: The foregoing RECITALS are hereby ratified and  
8 confirmed as being true, and the same are hereby made a part of this Resolution.

9 SECTION 2. AUTHORITY: The City Commission hereby approves and authorize the  
10 Mayor and City Clerk to execute and attest, respectively, that certain contract agreement  
11 provided under ITB26-6310-18B for Citywide Drainage Improvements to ATC Engineering Inc., as  
12 the lowest, responsive and most responsible bidder, in an amount not to exceed One Million Four  
13 Hundred Sixty Nine Thousand Seventy One and 10/100 Dollars (\$1,469,071.10), in substantially  
14 the form and content as attached hereto as **Exhibit A**, and incorporated herein by reference.

15 SECTION 3. INSTRUCTIONS TO THE DEPUTY CITY CLERK: The Deputy City Clerk, through  
16 the Acting City Manager, is hereby authorized to obtain three (3) executed copies of the  
17 Agreement with one (1) copy of the Agreement to be directed to ATC Engineering Inc.; with one  
18 (1) copy to be maintained by the City; and with one (1) copy directed to the Office of the City  
19 Attorney.



SECTION 4. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

ADOPTED BY THE CITY COMMISSION OF THE CITY OF LAUDERDALE LAKES AT ITS SPECIAL MEETING HELD JANUARY 21, 2026.

\_\_\_\_\_  
VERONICA EDWARDS PHILLIPS, MAYOR

ATTEST:

\_\_\_\_\_, CMC, Deputy City Clerk, for  
VENICE HOWARD, MPA, MMC, CITY CLERK

Approved as to form and legality  
for the use of and reliance by the  
City of Lauderdale Lakes only:

\_\_\_\_\_  
SIDNEY C. CALLOWAY, CITY ATTORNEY

Sponsored by: Maqsood M. Nasir, Director of Engineering Services;  
Aazam Piprawala, Procurement Administrator

**VOTE:**

Mayor Veronica Edwards Phillips	_____ (For)	_____ (Against)	_____ (Other)
Vice-Mayor Sharon Thomas	_____ (For)	_____ (Against)	_____ (Other)
Commissioner Tycie Causwell	_____ (For)	_____ (Against)	_____ (Other)
Commissioner Easton Harrison	_____ (For)	_____ (Against)	_____ (Other)
Commissioner Karlene Maxwell-Williams	_____ (For)	_____ (Against)	_____ (Other)



4300 N.W. 36<sup>TH</sup> STREET  
LAUDERDALE LAKES, FLORIDA, 33319-5599  
TEL 954.535.2700 / FAX 954.535.1892  
[www.lauderdalelakes.org](http://www.lauderdalelakes.org)

**CONSTRUCTION CONTRACT  
#26-6310-18B CITYWIDE DRAINAGE IMPROVEMENTS -NW 39 STREET FROM NW 34 Way  
TO NW 31 AVENUE**

THIS AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2026, between the CITY OF LAUDERDALE LAKES FLORIDA, a Florida municipal corporation, (CITY), and ATC ENGINEERING INC. (CONTRACTOR) whose FEIN Number is 81-1885592, (Parties).

WHEREAS, the CITY desires to retain a CONTRACTOR for the Project as expressed in its Invitation to Bid No. ITB 26-6310-18B for Citywide Drainage Improvements which closed on November 14, 2026; and

WHEREAS, at its meeting of January 21, 2026, by Resolution #2026-XXX, the CITY Commission authorized the proper CITY officials to execute this Contract hereinafter referred to as "Contract #26-6310-18B and;

WHEREAS, the CONTRACTOR has expressed its willingness and capability to perform the necessary work to accomplish the Project.

NOW, THEREFORE, in consideration of the mutual covenants and conditions, the Parties agree as follows:

**ARTICLE 1 - DEFINITIONS**

Wherever used in this Agreement or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural forms:

**1.1 Agreement** - The written agreement between CITY and CONTRACTOR covering the Work to be performed including other Contract Documents that are attached to or incorporated in the Agreement. Also referred to as "Contract".

**1.2 Change Order** - A document which is signed by the CITY and authorizes an addition, deletion or revision in the Work within the general scope of this Agreement, or an adjustment in the Term or Compensation, issued on or after the Effective Date of the Agreement.

**1.3 CITY** - The City of Lauderdale Lakes or its authorized agents, inspectors or representatives acting within the scope of duties entrusted to them by the CITY.

**1.4 Contractor** - The individual, partnership, corporation, joint-venture, or other legal entity with whom the CITY has entered into the Agreement.

**1.5 Contract Documents** - The Contract Documents shall consist of the Drawings, Plans and Specifications, Notice to Proceed, Certificate(s) of Insurance, Payment and Performance Bonds and any additional documents which are required to be submitted under the Contract, and all amendments,

modifications and supplements, change orders and work directive changes issued on or after the effective date of the Agreement.

**1.6 Drawings** - The drawings which show the character and scope of the Work to be performed and which are referred to in the Contract Documents.

**1.7 Engineer** - The CITY'S Engineer of the City of Lauderdale Lakes, Florida, or the authorized agents, inspectors or representatives acting within the scope of duties entrusted to them by the CITY.

**1.8 Notice to Proceed** - A written notice given by CITY to CONTRACTOR fixing the date on which the Work shall commence and the CONTRACTOR begins to perform its obligations under the Contract Documents.

**1.9 Specifications** - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship regarding the project.

**1.10 Worksite** – Location(s) inclusive of each site described in the plans and/or specifications.

## **ARTICLE 2 - CONTRACT DOCUMENTS**

### **2.1 Enumeration of Contract Documents:**

The Contract Documents comprise the entire agreement between CITY and CONTRACTOR and consist of the following:

- (1) This Agreement.
- (2) Construction performance bond.
- (3) Construction payment bond.
- (4) Insurance certificate(s) per ITB requirements.
- (5) Notice of Award and Notice to Proceed.
- (6) Request for Proposal and the Specifications prepared by the CITY (Exhibit 1)
- (7) CONTRACTOR's Response to the CITY's Invitation to Bid No. ITB 26-6310-18B Citywide Drainage Improvements dated ----- (Exhibit 2).
- (8) Schedule of Prices.
- (9) Standard General Conditions of the Construction contract for the City of Lauderdale Lakes Florida (Exhibit 3).
- (10) "Attachment 8" Contract Provisions for Coronavirus State and Local Fiscal Recovery Funds (SLFRF)
- (11) All relevant plans and specifications included in ITB 26-6310-18B

Any amendments executed by the CITY and the CONTRACTOR shall become part of this Agreement. Documents not included in this Article do not, and shall not, form any part of this Agreement. In the event of any conflict between the documents or any ambiguity or missing specification or instruction, the following priority is established:

- a. Specific direction from the City Commission (or designee).
- b. This Agreement dated \_\_\_\_\_, 2026.
- c. Exhibit 1. Invitation to Bid ITB 26-6310-18B
- d. Exhibit 2. Bid submitted -----
- e. Exhibit 3. Standard General Conditions of the Construction Contract.

### **2.2 Conflict, Error or Discrepancy:**

If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to the CITY, in writing at once and, before proceeding with the Work affected, shall obtain a written interpretation or clarification from CITY.

### **2.3 Representation of CONTRACTOR:**

Execution of the Contract by the CONTRACTOR is a representation that CONTRACTOR has visited the Work site and is familiar with the local conditions under which the Work is to be

performed.

### **ARTICLE 3 - SCOPE OF WORK**

The CONTRACTOR shall furnish all labor, materials and equipment and perform all the necessary work in the manner and form provided in the contract documents.

### **ARTICLE 4 - TERM**

The Work to be performed under this Agreement shall commence upon the date specified in the Notice to Proceed and, subject to authorized adjustments, shall be completed no later than **April 30th, 2026** after the execution of this Agreement. CONTRACTOR agrees that all Work under this Agreement shall be pursued on schedule, diligently and uninterrupted at a rate of progress which will ensure full completion within the agreed term. Failure to achieve timely, substantial and/or final completion shall be regarded as a material breach of this Agreement, and shall be subject to the appropriate remedies including but not limited to liability for liquidated damages in accordance with Article 10.

### **ARTICLE 5 - COMPENSATION**

CITY shall pay CONTRACTOR for the performance of all work, in accordance with Article 13, subject to additions and deductions by Change Order as provided in this Agreement, up to ONE MILLION, FOUR HUNDRED SIXTY-NINE THOUSAND, SEVENTY-ONE DOLLARS AND TEN CENTS (\$1,469,071.10). Compensation for future performance and work must be approved by City Commission.

### **ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES**

#### **6.1 Liability for Contracted Work:**

As an inducement for CITY to enter into this Agreement, CONTRACTOR has represented an expertise in professional construction of public construction projects by qualified and licensed general construction contractors. In reliance upon those representations, CITY hired CONTRACTOR to construct the Project. CONTRACTOR shall be liable for any defective or negligent work, whether patent or latent, and/ or any negligence, strict liability or breach of other legal duty.

#### **6.2 Shop Drawings and Samples:**

**6.2.1** CONTRACTOR shall submit to CITY for review and approval five (5) copies of all Shop Drawings for all equipment, apparatus, machinery, fixtures, piping, wiring, fabricated structures and manufactured articles seven (7) calendar days before the scheduled commencement of the construction work. The purpose of the Shop Drawing is to show the suitability, efficiency, technique of manufacture, installation requirements, details of the item and evidence of compliance with the Contract Documents. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable CITY to review the information as required.

**6.2.2** CONTRACTOR shall also submit to CITY, for review and approval, all samples required by the Contract Documents which shall clearly identify material, supplier, pertinent data such as catalog numbers and the intended use.

**6.2.3** Before submission of each Shop Drawing or sample, CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

**6.2.4** At the time of each submission, CONTRACTOR shall give CITY specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall specifically note each variation on each Shop Drawing submitted for review and approval. Failure by the CITY to notice or identify CONTRACTOR's failure to make the notation shall not relieve CONTRACTOR from the responsibility to comply with the Contract Documents.

**6.2.5** Approval of the Shop Drawings by CITY shall be general and shall not relieve CONTRACTOR of responsibility for the accuracy of such drawings nor for the proper fittings and construction of the Work, nor for the furnishing of material or work required by the Agreement and not indicated on the drawings. No work called for by any Shop Drawing shall be done until the drawings have been approved by CITY.

### **6.3 Supervision:**

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

### **6.4 On Site Management:**

CONTRACTOR shall keep on the Work site at all times during its progress a competent on-site manager and any necessary personnel who shall not be replaced without written notice to CITY unless the personnel proves to be unsatisfactory to CONTRACTOR or to the CITY. The on-site Manager shall be CONTRACTOR's representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the on-site Manager shall be as binding as if given to CONTRACTOR.

### **6.5 Labor:**

**6.5.1** Construction services shall be performed by qualified construction contractors licensed to do business in the State of Florida. Suppliers shall be selected and paid by the CONTRACTOR; the CITY reserves the right to approve all suppliers and materials.

**6.5.2** CONTRACTOR shall provide and pay for competent, suitably qualified personnel to perform the work as required by the Contract Documents. CONTRACTOR shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. CONTRACTOR shall at all times maintain good discipline and order at the Work site. Except in connection with the safety or protection of persons, the Work, or property adjacent to the site, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during the hours of 7:30 a.m. and 6:00 p.m. CONTRACTOR will not permit overtime Work or the performance of Work on Saturday, Sunday or any legal holiday without CITY's written consent.

### **6.6 Materials:**

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

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

### **6.7 Subcontractors, Suppliers and Others:**

**6.7.1** Prior to the execution of this Agreement and in any event prior to the commencement of any work, CONTRACTOR shall furnish, in writing to the CITY, the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. CITY shall advise CONTRACTOR, in writing, of any proposed person or entity to which CITY has an objection. CONTRACTOR shall not contract with a proposed person or entity to whom CITY has made an objection. If CITY objects to a person or entity proposed by CONTRACTOR, CONTRACTOR shall propose another to whom CITY has no objection. CONTRACTOR shall not change a subcontractor, person or entity previously selected if CITY makes objection to the change.

**6.7.2** CONTRACTOR shall be fully responsible to CITY for all acts and omissions of the CONTRACTOR, its employees, subcontractors, suppliers, other persons directly or indirectly employed by its subcontractors or suppliers, persons for whose acts any of them may be liable and any other persons or organizations performing or furnishing supplies under a direct or indirect Contract with CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between CITY and any such Subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of CITY to pay or to cause the payment of any money due any subcontractor, supplier, employee or agent except as may otherwise be required by law.

**6.7.3** All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to all applicable terms and conditions of the Contract Documents for the benefit of CITY.

**6.8 Patent Fees and Royalties:**

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

**6.9 Permits:**

CONTRACTOR shall obtain and pay for all permits and licenses and all related costs for inspection and administration. There will be no cost for permits issued by the CITY.

**6.10 Compliance with Laws and Regulations:**

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

**6.11 Risk of Loss; Ownership:**

The risk of loss, injury or destruction shall be on CONTRACTOR until acceptance of the Work by CITY. Title to the Work shall pass to CITY upon acceptance of the Work by CITY.

**6.12 Taxes:**

CONTRACTOR shall pay all sales, consumer, use and other similar taxes. CONTRACTOR is responsible for reviewing the pertinent state laws and regulations involving such taxes and complying with all requirements.

**6.13 Use of Premises:**

**6.13.1** CONTRACTOR shall confine equipment, the storage of materials and equipment and the operations of workers to the work site and areas identified in and permitted by the Contract Documents and shall not unreasonably encumber the premises with equipment or other materials. CONTRACTOR shall assume full responsibility for any damage to any land or areas or to the owner or occupant of any contiguous land or areas, resulting from the performance of the Work. Should any owner or occupant because of the performance of the Work make any claim against CITY, CONTRACTOR shall promptly attempt to settle with the claimant by agreement or otherwise resolve the claim.

**6.13.2** During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by CITY. CONTRACTOR shall restore to original condition all property not

designated for alteration by the Contract Documents including fencing, parking lots and grounds.

**6.13.3** CONTRACTOR shall not permit any part of any structure or land to be treated in any manner that will endanger the structure or any land, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or processes that will endanger it.

**6.14 Access to Work:**

CONTRACTOR shall provide CITY, its consultants, representatives and personnel, independent testing laboratories and governmental agencies with jurisdictional interests with access to the work at reasonable times for their observation, inspection and testing. CONTRACTOR shall provide proper and safe conditions for access and shall advise these authorized persons of CONTRACTOR's site safety procedures and programs.

**6.15 Safety and Protection:**

**6.15.1** CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work to prevent damage, injury or loss to all employees on the work site and other persons and organizations who may be affected. This paragraph applies to all the Work, materials and equipment, whether in storage on or off the site; and other property at the site or adjacent to the site.

**6.15.2** CONTRACTOR shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss.

**6.16 Environmental:**

The CONTRACTOR has fully inspected the worksite and agrees to accept the worksite in an "as is" physical condition, without representation or warranty by the CITY of any kind, including, without limitation, any and all existing environmental claims or obligations that may arise from the presence of any "contamination" on, in or about the worksite. Further CONTRACTOR and all entities claiming by, through or under CONTRACTOR, releases and discharges the CITY from any claim, demand, or cause of action arising out of or relating to the CONTRACTOR's use, handling, storage, release, discharge, treatment, removal, transportation, decontamination, cleanup, disposal and/or presence of any hazardous substances including asbestos on, under, from or about the worksite. The CONTRACTOR shall have no liability for any pre-existing claims or "contamination" on the worksite.

CONTRACTOR shall not use, handle, store, discharge, treat, remove, transport or dispose of Hazardous Substances including asbestos at, in, upon, under, to or from the worksite until receipt of instructions from the CITY. At such time, a CITY approved change order, which shall not include any profit, shall authorize the CONTRACTOR to perform such services.

CONTRACTOR shall immediately deliver to CITY complete copies of all notices, demands or other communications received by CONTRACTOR from any governmental or quasi-governmental authority or any insurance company or board of fire underwriters or like or similar entities regarding in any way alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity on the worksite which is or could be dangerous to life, limb, property or the environment.

CONTRACTOR indemnifies and agrees to protect, defend, and hold harmless, the CITY and its respective employees, agents, successors, and assigns from and against any and all claims, demands, losses, damages, costs, expenses, including but not limited to mitigation, restoration, and natural resource restoration expenses, liabilities, assessments, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, causes of action, in law or in equity, remedial action requirements and/or enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, the CONTRACTOR's (or any of its employees, agents, invitees, contractors or sub-contractors) use, handling, storage, release, threatened release, discharge, treatment, removal, transportation, decontamination, cleanup, disposal and/or presence of a Hazardous Substance on, under, from, to or about the worksite or any other activity carried on or undertaken on or off the worksite by the CONTRACTOR or its employees, agents or subcontractors, in connection with the use, handling, storage, release, threatened release, discharge, treatment, mitigation, natural resource restoration, removal, transportation, decontamination, cleanup, disposal and/or presence of any Hazardous Substance located, transported, or present on, under, from, to, or about the worksite. This indemnity is intended to be

operable under 42 U.S.C. section 9607, as amended, and any successor section.

The scope of the indemnity obligations includes, but is not limited to: (a) all consequential damages; (b) the cost of any required or necessary repair, cleanup, or detoxification of the applicable real estate and the preparation and implementation of any closure, remedial or other required plan, including without limitation; (i) the costs of removal or remedial action incurred by the United States government or the State of Florida or response costs incurred by any other person, or damages from injury to, destruction of, or loss of, natural resources, including the cost of assessing such injury, destruction, or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended; (ii) the clean-up costs, fines, damages, or penalties incurred pursuant to any applicable provisions of Florida law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs, or penalties which arise from the provisions of any other statute, law, regulation, code, ordinance, or legal requirement, state or federal; and (c) liability for personal injury or property damage arising under any statutory or common law tort theory, including damages assessed for the maintenance of a public private nuisance, response costs, or for the carrying on of an abnormally dangerous activity.

The indemnification obligations contained herein are supported by separate consideration of \$10.00 which the proposer acknowledges as adequate.

#### **6.17 Indemnification:**

**6.17.1** In addition to, CONTRACTOR shall indemnify, defend, save and hold harmless the CITY, its officers, agents and employees, from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential including but not limited to fees and charges of engineers, architects, attorneys, consultants and other professionals and court costs arising out of or in consequence of the performance of this Agreement at all trial and appellate levels. Indemnification shall specifically include but not be limited to claims, damages, losses, liabilities and expenses arising out of or from (a) the negligent or defective design of the project and Work of this Agreement; (b) any act, omission or default of the CONTRACTOR, its Subcontractors, agents, servants or employees; (c) any and all bodily injuries, sickness, disease or death; (d) injury to or destruction of tangible property, including any resulting loss of use; (e) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this Project including the warranty period; (f) the use of any improper materials; (g) any construction defect including both patent and latent defects; (h) failure to timely complete the work; (i) the violation of any federal, state, county or city laws, ordinances or regulations by CONTRACTOR, its subcontractors, agents, servants, independent contractors or employees; (j) the breach or alleged breach by CONTRACTOR of any term of the Contract, including the breach or alleged breach of any warranty or guarantee.

**6.17.2** CONTRACTOR agrees to indemnify, defend, save and hold harmless the CITY, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against CITY, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

**6.17.3** CONTRACTOR shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs at trial and appellate levels.

**6.17.4** If any Subcontractor, supplier, laborer, or materialmen of CONTRACTOR or any other person directly or indirectly acting for or through CONTRACTOR files or attempts to file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements or make a claim against any monies due or to become due from the CITY to CONTRACTOR or from CONTRACTOR to a Subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any change order, CONTRACTOR agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within five (5) calendar days of the filing or from receipt of written notice from the CITY.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by CONTRACTOR, all monies due to CONTRACTOR, or that become due to CONTRACTOR before the lien or claim is satisfied, removed or otherwise discharged, shall be held by CITY as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining the discharge. If



CONTRACTOR shall fail to do so, CITY shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means CITY chooses at the entire and sole cost and expense of CONTRACTOR which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments, and which shall be deducted from any amount owing to CONTRACTOR. In the event the amount due CONTRACTOR is less than the amount required to satisfy CONTRACTOR'S obligation under this, or any other section of the Agreement, the CONTRACTOR shall be liable for the deficiency due the CITY.

#### **6.18 Survival of Obligations:**

All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the Contract Documents, shall survive final payment, completion and acceptance of the work and termination or completion of the Agreement.

#### **6.19 Correction or Removal of Defective Work:**

If required by CITY, CONTRACTOR shall promptly correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by CITY, remove it from the site and replace it with non-defective Work. CONTRACTOR shall bear all direct, indirect and consequential costs for the correction or removal of defective work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals).

If the work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, CITY may order CONTRACTOR to stop the Work, or any portion, until the cause for such order has been eliminated; however, this right of CITY to stop the Work shall not give rise to any duty on the part of CITY to exercise this right for the benefit of CONTRACTOR or any other party.

#### **6.20 Force Majeure:**

No party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or circumstances shall include, but not be limited to, weather conditions affecting performance, floods, epidemics, war, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the parties shall use their best efforts to overcome the difficulties and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three (3) days or the acts or omissions of subcontractors, third-party contractors, materialmen, suppliers, or their subcontractors, shall not be considered acts of force majeure.

No party shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable by force majeure to carry out its obligation, but the obligation of the party or parties relying on such force majeure shall be suspended only during the continuance of the inability and for no longer period than the unexpected or uncontrollable event.

The CONTRACTOR further agrees and stipulates that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a Force Majeure delay has commenced within two (2) hours after such an occurrence.

### **ARTICLE 7 - CITY'S RESPONSIBILITIES**

**7.1** CITY shall furnish data required of CITY under the Contract Documents.

**7.2** CITY shall make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

### **7.3 Technical Clarifications and Interpretations:**

**7.3.1** CITY shall issue, with reasonable promptness, such written clarifications or interpretations of the technical requirements of the Contract Documents as it may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should CONTRACTOR fail to request interpretation of questionable items in the Contract Documents, CITY shall not entertain any excuse for failure to execute the work in a satisfactory manner.

**7.3.2** CITY shall interpret and decide matters concerning performance under the requirements of the Contract Documents, and shall make decisions on all claims, disputes or other matters in question. Written notice of each claim, dispute or other matter will be delivered by claimant to the other party but in no event later than five (5) days after the occurrence of the event, and written supporting data will be submitted to the other party within five (5) calendar days after such occurrence. All written decisions of the CITY on any claim or dispute will be final and binding.

## **ARTICLE 8 - BONDS AND INSURANCE**

### **8.1 Payment and Performance Bonds:**

**8.1.1** Prior to commencing work, the CONTRACTOR shall execute and furnish to CITY a performance bond and a payment bond, in a form approved by the CITY and as provided by state law, each written by a corporate surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five (5) years. The surety company shall have at least the following minimum qualification in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858: B+ to A+.

**8.1.2** The penal sum stated in each bond shall be the amount equal to the total amount payable under the terms of this Agreement. The performance bond shall be conditioned that the CONTRACTOR performs the contract in the time and manner prescribed in the Agreement. The payment bond shall be conditioned that the CONTRACTOR promptly makes payments to all persons who supply the CONTRACTOR with labor, materials and supplies used directly or indirectly by the CONTRACTOR in the performance of the Work provided for in this Agreement and any change orders and shall provide that the surety shall pay the amount not exceeding the sum provided in the bonds, together with interest at the maximum rate allowed by law and that the CONTRACTOR and surety shall indemnify and save harmless the CITY to the extent of any and all payments in connection with the performance of this Agreement which the CITY may be required to make by law.

**8.1.3** Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, the CONTRACTOR shall record the payment and performance bonds in the public records of Broward County, at its own expense.

### **8.2 Bonds, Reduction After Final Payment:**

The performance and payment bonds shall continue in effect for one (1) year after final payment becomes due except as otherwise provided by law or regulation or by the Contract Documents with the final sum of these bonds reduced after final payment to an amount equal to twenty five percent (25%) of the Agreed Compensation, or an additional bond shall be conditioned that CONTRACTOR shall correct any defective or faulty Work or material which appears within one (1) year after final completion of the Agreement, upon notification by the CITY.

### **8.3 Duty to Substitute Surety:**

If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of other applicable laws or regulations, CONTRACTOR shall within three (3) days substitute another bond and surety, both of which must be acceptable to CITY. The CITY shall have the right to disapprove any CONTRACTOR or subcontractor selected by any surety.

### **8.4 Insurance:**

**8.4.1** At the time of execution of the Agreement, the CONTRACTOR shall submit certificate(s) of insurance evidencing the required coverage and specifically providing that the CITY is an additional, named, first party insured with respect to the required coverage and the operations of the CONTRACTOR under the Agreement. The certificates of insurance shall not only name the types of policies provided, but shall also specifically refer to this Agreement and shall state that the insurance is as required by Article 8 and its subparts of this Agreement. CONTRACTOR shall not commence work under this Agreement until after CONTRACTOR has obtained all of the minimum insurance described and the policies of such insurance detailing the provisions of coverage have been received and approved by CITY. CONTRACTOR shall not permit any subcontractor to begin work until after similar minimum insurance to cover subcontractor has been obtained and approved. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the term of this Agreement, then in that event, CONTRACTOR shall furnish, at least thirty (30) calendar days prior to expiration of the date of the insurance, a renewed certificate of insurance as proof that equal and like coverage and extension is in effect. CONTRACTOR shall not continue to perform the services required by this Agreement unless all required insurance remains in full force and effect.

**8.4.2** Insurance Companies selected by CONTRACTOR must be acceptable to the CITY. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, materially changed or renewal refused until at least thirty (30) Calendar days written notice has been given to CITY by certified mail.

**8.4.3** The CONTRACTOR shall procure and maintain at its own expense and keep in effect during the full term of this Agreement a policy or policies of insurance which must include the following coverage and minimum limits of liability:

(a) **Worker's Compensation** Insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws.

(b) **Comprehensive or Commercial General Liability** – Minimum Limits of total coverage shall be \$2,000,000 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability, the basic policy to be in said form with any excess coverage (and the carrier) to meet \$2,000,000 minimum to be acceptable to the CITY.

(c) **Comprehensive Automobile Liability** Insurance for all owned, non-owned and hired automobiles and other vehicles used by the CONTRACTOR in the performance of the Work with the following minimum limits of liability:

\$2,000,000.00 - Combined Single Limit, Bodily Injury and Property Damage Liability, per occurrence

Coverage must be offered in a form no more restrictive than the latest edition of the Comprehensive General Liability Policy without restrictive endorsements, as filed with the Florida Department of Insurance and shall specifically include the following minimum limits not less than those required for Bodily Injury Liability and Property Damage Liability:

1. Premises and Operations;
2. Independent Contractors;
3. Product and Completed Operations Liability;
4. Broad Form Property Damage;
5. Broad Form Contractual Coverage applicable to this Agreement and specifically confirming the indemnification and hold harmless provision in this Agreement; and
6. Personal Injury coverage with employment contractual exclusions removed and deleted.

(d) **Builder's Risk Insurance** in an amount not less than the replacement cost for the construction of the Work. Coverage shall be "All Risk" coverage for one hundred percent (100%) of the completed value with a deductible of not more than Five Thousand Dollars (\$5,000.00) per claim.

**8.4.4** CONTRACTOR shall maintain the Products and Completed Operations Liability Insurance for a period of at least two (2) years after final payment for the Work and furnish CITY with evidence of the continued insurance coverage at the time of final payment.

**8.4.5** The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with the minimum rating of B+ to A+, in accordance with the latest edition

of A.M. Best's Insurance Guide.

**8.4.6** All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against CITY with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.

**8.4.7** The CONTRACTOR shall ensure that any company issuing insurance to cover the requirements contained in this Agreement agrees that they have no recourse against CITY for payment or assessments in any form on any policy of insurance.

**8.4.8** The clauses "Other Insurance Provisions" and "Insurers Duties in the Event of an Occurrence, Claim or Suit" as it appears in any policy of insurance in which CITY is named as an additional named insured shall not apply to CITY. CITY shall provide written notice of occurrence to the Insurer within fifteen (15) working days of CITY's actual notice of such an event.

**8.4.9** The CONTRACTOR shall not commence performance of its obligations under this Agreement until after it has obtained all of the minimum insurance described and the CITY's approved.

**8.4.10** The CONTRACTOR agrees to perform the work under the Agreement as an independent CONTRACTOR, and not as a subcontractor, agent or employee of CITY.

**8.4.11** CONTRACTOR shall require each of its subcontractors to maintain the insurance required for each category, and CONTRACTOR shall provide verification to CITY upon its request.

**8.4.12** Violation of the terms of this paragraph and its subparts shall constitute a material breach of the Agreement, and CITY, at its sole discretion, may cancel the Agreement and all rights, title and interest of the CONTRACTOR shall cease and terminate.

**8.4.13** CITY shall not be responsible for purchasing and maintaining any insurance to protect the interests of CONTRACTOR, subcontractors or others performing the Work. CITY specifically reserves all statutory and common law rights and immunities. Nothing contained in this Agreement is intended to limit or waive any rights or immunities including, but not limited to, the procedural and substantive provisions of Chapter 768, Florida Statutes.

## **ARTICLE 9 - WARRANTIES: TESTS AND INSPECTIONS: CORRECTION OF DEFECTIVE WORK**

### **9.1 Warranty of Title:**

The CONTRACTOR warrants to the CITY that it possesses good, clear and marketable title to all equipment and materials provided and that there are no pending liens, claims or encumbrances against the equipment and materials.

### **9.2 Warranty of Specifications:**

The CONTRACTOR warrants that all equipment, materials and workmanship furnished, whether furnished by the CONTRACTOR, its subcontractors or suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted and that all services will be performed in a workmanlike manner.

### **9.3 Warranty of Merchantability:**

CONTRACTOR warrants that any and all equipment to be supplied pursuant to the Agreement is merchantable, free from defects, whether patent or latent in material or workmanship, and fit for the ordinary purposes for which it is intended.

### **9.4 Correction Period:**

CONTRACTOR warrants all material and workmanship for a minimum of two (2) year(s) from date of

acceptance by the CITY. If, within two (2) year(s) after the date of final completion or such longer period of time as may be prescribed by laws or regulations, or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, whether observed before or after acceptance by CITY, CONTRACTOR shall promptly, without cost to CITY and in accordance with CITY's written instructions, either correct such defective work, or, if it has been rejected by CITY, remove it from the site and replace it with Work that is not defective and that is satisfactorily correct, and remove and replace any damage to other Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, CITY may have the defective workmanship corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) shall be paid by CONTRACTOR.

**9.4.1** Where defective Work (and damage to other work) has been corrected, removed or replaced under this Article, the correction period with respect to such Work will be extended for an additional period of two (2) year(s) after such correction, removal or replacement has been satisfactorily completed.

**9.4.2** Nothing contained in this Article shall be construed to establish a period of limitation with respect to other obligations which CONTRACTOR might have under the Contract Documents. Establishment of the time period of two (2) year(s) as described in above paragraph relates only to the specific obligation of the CONTRACTOR to correct the work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish CONTRACTOR's liability with respect to the CONTRACTOR's obligation other than specifically to correct the Work.

**9.5** CONTRACTOR warrants to the CITY that it will comply with all applicable federal, state and local laws, regulations and orders in carrying out its obligations under this Agreement.

**9.6** CONTRACTOR warrants to the CITY that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation, arbitration or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under the Agreement.

**9.7** CONTRACTOR warrants to the CITY that the performance of the work provided for in the Contract Documents will not result in the breach of any term or provision, or constitute a default under any indenture, mortgage, contract, or agreement to which the CONTRACTOR is a party.

**9.8** CONTRACTOR warrants that there has been no violation or copyrights of patent rights either in the United States of America or in foreign countries in connection with the Work of the Agreement.

**9.9** No warranty, either express or implied, may be modified, excluded or disclaimed in any way by CONTRACTOR. All warranties shall remain in full force and effect, notwithstanding acceptance and payment by CITY.

#### **9.10 Tests and Inspections:**

**9.10.1** CONTRACTOR shall give CITY timely notice of readiness of the work for all required inspections, tests or approvals. CONTRACTOR shall assume full responsibility, pay all costs and furnish CITY the required certificates of inspection, testing or approval for all materials, equipment or the Work or any part unless otherwise specified.

**9.10.2** Neither CITY nor other inspectors shall have authority to permit deviations from nor to relax any of the provisions of the Contract Documents, nor to delay the Agreement by failure to inspect the materials and work with reasonable promptness.

**9.10.3** The payment of any compensation, the giving of any gratuity or the granting of any favor by the CONTRACTOR to any inspectors, directly or indirectly, is strictly prohibited and punishable to the full extent of the law, and any such action on the part of the CONTRACTOR will constitute a termination of this Agreement.

#### **9.11 Warranty Information**

The CONTRACTOR shall deliver to the CITY and the CITY shall execute all applicable product and equipment registration, manuals, instructions, keys, accessories and warranty documents in accordance with manufacturers' policies and procedures. CONTRACTOR shall facilitate any necessary warranty claims free of charge.

#### **ARTICLE 10 - LIQUIDATED DAMAGES**

If the awarded BIDDER fails to complete the project by the completion date stated on the Bid Form, it is understood that five-hundred dollars (\$500.00) per calendar day will be deducted as liquidated damages, for each day beyond the substantial completion time and five-hundred dollars (\$500.00) per calendar day will be deducted as liquidated damages, for each day beyond the final completion time unless time extension is approved by the City Manager, it being agreed that the damage suffered by the CITY for such delay(s) cannot be specifically ascertained.

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

**11.1** One or more changes to the work within the general scope of this Agreement may be ordered by Change Order. The Contractor shall proceed with any such changes, and they shall be accomplished in strict accordance with the Contract Documents and the terms and conditions described in this Article.

**11.2** A Change Order shall mean a written order to the CONTRACTOR executed by the parties after execution of this Agreement, directing a change in the work and may include a change in the agreed compensation in accordance with Article 12 or the time for the CONTRACTOR's performance.

**11.3** The execution of a Change Order by the CONTRACTOR shall constitute conclusive evidence of the CONTRACTOR's agreement to the ordered changes in the work and the CONTRACTOR, by executing the Change Order, waives and forever releases any claim against the CITY for additional time or compensation for matters relating to or arising out of or resulting from the work included within or affected by the executed Change Order.

**11.4** The CONTRACTOR shall notify and obtain the consent and approval of the CONTRACTOR's surety with reference to all Change Orders if such notice, consent or approval is required by the CONTRACTOR's surety or by law. The CONTRACTOR's execution of the Change Order shall constitute the CONTRACTOR's warranty to the CITY that the surety has been notified of, and consents to, such Change Order and the respective increase in the Performance bond amount commensurate with the Change Order(s). Furthermore, upon the CONTRACTOR's execution of the Change Order(s), the surety shall be conclusively deemed to have been notified of such Change Order by the CONTRACTOR in the increase in the required Performance Bond amount, and to have expressly consented.

#### **ARTICLE 12 - CHANGE IN COMPENSATION**

Change orders approved by CITY shall be computed as follows:

##### **12.1 Cost of the Work:**

The term "Cost of the Work" means the sum of all direct costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by CITY, these costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Paragraph 12.2:

**12.1.1** Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by CITY and CONTRACTOR. Payroll costs for employees not employed full time on the work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and applicable holiday pay.

**12.1.2** Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and required suppliers and field services. All cash discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to CITY, and CONTRACTOR shall make provisions so that they may be obtained.

**12.1.3** Supplemental costs including the following:

**12.1.3.1** Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work.

**12.1.3.2** Rentals of all construction equipment and machinery and the parts whether rented from CONTRACTOR or others in accordance with rental agreements approved by CITY, and the costs of transporting, loading, unloading, installing, dismantling and removal. The rental of any such equipment, machinery or parts shall cease when the use is no longer necessary for the Work.

**12.1.3.3** Sales, consumer, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by laws or regulations.

**12.1.3.4** Royalty payments and fees for permits or licenses.

**12.1.3.5** The cost of utilities, fuel and sanitary facilities at the Work site.

**12.1.3.6** Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

**12.1.3.7** Cost of premiums for additional bonds and insurance required because of changes in the Work.

**12.2 Not Included in the Cost of the Work:**

The term "cost of the Work" shall not include any of the following.

**12.2.1** Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR's principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 12.1.1, all of which are to be considered administrative costs covered by CONTRACTOR's fee.

**12.2.2** Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.

**12.2.3** Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

**12.2.4** Cost of premiums for all bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain them.

**12.2.5** Costs due to the negligence of CONTRACTOR, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

**12.2.6** Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.1.

**12.3 Cost Breakdown Required:**

Whenever the cost of any Work is to be determined pursuant to this Article, CONTRACTOR will submit

in form acceptable to the CITY an itemized cost breakdown together with supporting documentation. Whenever a change in the Work is to be based upon mutual acceptance of a lump sum, whether the amount is an addition, credit, or no-change-in-cost, the CONTRACTOR shall submit an estimate substantiated by a complete itemized breakdown as follows:

- (a) The breakdown shall list quantities and unit prices for materials, labor, equipment and other items of cost.
- (b) Whenever a change involves the CONTRACTOR and one (1) or more subcontractors and the change is an increase in the agreed compensation, the overhead and profit percentage for the CONTRACTOR and each subcontractor shall be itemized separately.

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

### **13.1 Progress Payments:**

**13.1.1** CONTRACTOR may request payments for work completed during the project at intervals of not more than once a month. The CONTRACTOR's requisition shall show a complete breakdown of the project components, the quantities completed and the amount due, together with a certification by the CONTRACTOR that the CONTRACTOR has disbursed to all subcontractors and suppliers their pro-rata shares of the payment out of previous progress payments received by the CONTRACTOR for all work completed and materials furnished in the previous period or properly executed releases of liens by all subcontractors, suppliers and materialmen who were included in the CONTRACTOR's previous applications for payment, and any other supporting documentation as may be required by the CITY, the ENGINEER or Contract Documents. Each requisition shall be submitted in triplicate to the CITY for approval. The CITY shall make payment to the CONTRACTOR within thirty (30) calendar days after approval of the CONTRACTOR's requisition for payment. Any rejection by the CITY of any specific item (s) shall result in CONTRACTOR being notified of the rejection within five (5) Business days of the rejection.

**13.1.2** Five percent (5%) of all monies earned by the CONTRACTOR shall be retained by the CITY until the work is totally completed and accepted by the CITY.

### **13.2 Inspection:**

CITY shall make an inspections as necessary and notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take the necessary measures to remedy any deficiencies within five (5) calendar days of the inspection.

### **13.3 Final Application for Payment:**

After CONTRACTOR has completed all corrections to the satisfaction of CITY and delivered all maintenance and operating instructions, schedules, warranties, guarantees, bonds, certificates of inspection, marked up record documents and other documents required by the Contract Documents or requested by the CITY, CONTRACTOR may make application for final payment. The final application for payment shall be accompanied by (1) complete and legally effective releases or waivers of all liens arising out of or filed in connection with the work; or (2) CONTRACTOR's receipts in full covering all labor, materials and equipment for which a lien could be filed; or (3) a final affidavit stating that all laborers, materialmen, suppliers and subcontractors who worked for CONTRACTOR under this Contract have been paid in full or if the fact be otherwise, identifying the name of each lien or who has not been paid in full and the amount due or to become due each for labor, services or materials furnished. If any subcontractor or supplier fails to furnish a release or receipt in full, CONTRACTOR shall furnish a bond satisfactory to CITY to indemnify CITY against any lien, or the CITY may directly pay any subcontractor or supplier and deduct that amount due to CONTRACTOR.

In addition, CONTRACTOR shall also submit with the final application for payment, the completed set of "As-Built" drawings for review and approval. The "As-Built" drawings shall be prepared, sealed and certified by a professional surveyor licensed by the State of Florida. Final payment to CONTRACTOR shall not be made until the shop drawings have been reviewed and approved by the CITY. Prior to approval, if necessary, the drawings may be returned to CONTRACTOR for changes or modifications if in the opinion of CITY they do not represent correct or accurate "As-Built" drawings.



### **13.4 Final Payment and Acceptance:**

**13.4.1** If, on the basis of observing the Work during construction and final inspection, and review of the final Application for Payment and accompanying documentation, the CITY is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, CITY will give written notice to CONTRACTOR that the Work is acceptable. Otherwise, the Application will be returned to CONTRACTOR indicating in writing the reasons for refusing to make final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty (30) days after presentation to CITY of the Application and accompanying documentation, in appropriate form and substance, the amount will become due and will be paid by CITY to CONTRACTOR.

**13.4.2** If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed and the occurrence is confirmed, CITY shall, upon receipt of CONTRACTOR's final Application for Payment, without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by CITY for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to the CITY with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims held by the CITY.

**13.5** Final payment, constituting the entire unpaid balance of the agreed compensation, shall be paid by the CITY to CONTRACTOR when the work has been completed, the Contract fully performed, and a final certificate for payment has been issued by the CITY ENGINEER. The making of final payment shall constitute a waiver of claims by CITY except those arising from:

- (1) Faulty or defective work and latent defects discovered after acceptance.
- (2) Failure of the work to comply with the requirements of the contract documents.
- (3) Terms of special warranties required by those contract documents.
- (4) Any of CONTRACTOR's continuing obligations under this Agreement.

The acceptance of final payment by CONTRACTOR or the subcontractor for materials and supplies shall constitute a waiver of claims except those previously made in writing and identified as unsettled at the time of final application for payment.

### **13.6 CITY's Right to Withhold Payment:**

The CITY may withhold in whole or in part, final payment or any progress payment to such extent as may be necessary to protect itself from loss on account of:

**13.6.1** Defective work not remedied.

**13.6.2** Claims filed or evidence indicating the probable filing of claims by other parties against the CONTRACTOR.

**13.6.3** Failure of the CONTRACTOR to make payment to subcontractors or suppliers for materials or labor.

**13.6.4** Damage to another contractor, subcontractor or supplier not remedied.

**13.6.5** Liability for liquidated damages has been incurred by the CONTRACTOR.

**13.6.6** Evidence that the Work cannot be completed for the unpaid balance of the agreed compensation.

**13.6.7** Evidence that the work will not be completed within the Agreement's term.

**13.6.8** Failure to carry out the Work in accordance with the Contract Documents.

When the above grounds are removed or resolved or the CONTRACTOR provides a surety bond or a consent of surety satisfactory to the CITY which will protect the CITY in the amount withheld, payment may be made in whole or in part.

## **ARTICLE 14 - TERMINATION OF THE CONTRACT**

The CITY retains the right to terminate this Agreement with or without cause, with thirty (30) days prior written notice. Additionally, the CITY may also terminate this Agreement upon fifteen (15) days notice upon the occurrence of any one or more of the following events:

**14.1** If CONTRACTOR commences a voluntary case or a petition is filed against CONTRACTOR, under any chapter of the Bankruptcy Code, or if CONTRACTOR takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

**14.2** If CONTRACTOR makes a general assignment for the benefit of creditors.

**14.3** If a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under Contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR's creditors.

**14.4** If CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents, including but not limited to, failure to supply sufficient skilled Workers or suitable materials or equipment or failure to adhere to the progress schedule as same may be revised from time to time.

**14.5** If CONTRACTOR disregards any local, state or federal laws or regulations.

**14.6** If CONTRACTOR otherwise violates any provisions of this Agreement.

Further, CONTRACTOR may be excluded from the Work site and the CITY take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment and machinery at the site and use them without liability to CONTRACTOR for trespass or conversion, incorporate in the Work all materials and equipment stored at the site or for which CITY has paid CONTRACTOR but which are stored elsewhere, and finish the Work as CITY may deem expedient. In this instance, CONTRACTOR shall not be entitled to receive any further compensation until the Work is finished.

**14.7** If CONTRACTOR commits a default due to its insolvency or bankruptcy, the following shall apply:

**14.7.1** Should this Agreement be entered into and fully executed by the parties, funds released and the CONTRACTOR (Debtor) files for bankruptcy, the following shall occur:

a. In the event the Debtor files a voluntary petition under 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303, the Debtor shall acknowledge the extent, validity, and priority of the lien recorded in favor of the CITY. The Debtor further agrees that in the event of this default, the CITY shall, at its option, be entitled to seek relief from the automatic stay provisions in effect pursuant to 11 U.S.C. 362. The CITY shall be entitled to relief from the automatic stay pursuant to 11 U.S.C. 362(d)(1) or (d)(2), and the Debtor agrees to waive the notice provisions in effect pursuant to 11 U.S.C. 362 and any applicable Local Rules of the United States Bankruptcy Court. The Debtor acknowledges that such waiver is done knowingly and voluntarily.

b. Alternatively, in the event the CITY does not seek stay relief, or if stay relief is denied, the CITY shall be entitled to monthly adequate protection payments within the meaning of 11 U.S.C. 361. The monthly adequate protection payments shall each be in an amount determined in accordance with the Note and Mortgage executed by the Debtor in favor of the CITY.

c. In the event the Debtor files for bankruptcy under Chapter 13 of Title 11, United States Code, in addition to the foregoing provisions, the Debtor agrees to cure any amounts in arrears over a period not to exceed twenty-four (24) months from the date of the confirmation order, and such payments shall be made in addition to the regular monthly payments required by the Note and Mortgage. Additionally, the Debtor shall agree that the CITY is over secured and, therefore, entitled to interest and attorney's fees pursuant to 11 U.S.C. 506(b). Such fees shall be allowed and payable as an administrative expense. Further, in the event the CONTRACTOR has less than five (5) years of payments remaining on

the Note, the CONTRACTOR agrees that the treatment afforded to the claim of the CITY under any confirmed plan of reorganization shall provide that the remaining payments shall be satisfied in accordance with the Note, and that the remaining payments or claim shall not be extended or amortized over a longer period than the time remaining under the Note.

**14.7.2** Should this Agreement be entered into and fully executed by the parties, and the compensation has not been forwarded to Debtor, the following shall occur:

In the event the Debtor files a voluntary petition pursuant to 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303, the Debtor acknowledges that the commencement of a bankruptcy proceeding constitutes an event of default under the terms of this Agreement. Further, the Debtor acknowledges that this Agreement constitutes an executory contract within the meaning of 11 U.S.C. 365. The CONTRACTOR acknowledges that the Agreement is not capable of being assumed pursuant to 11 U.S.C. 365(c) (2), unless the CITY expressly consents in writing to the assumption. In the event the CITY consents to the assumption, the Debtor agrees to file a motion to assume the Agreement within ten (10) days after receipt of written consent from the CITY, regardless of whether the bankruptcy proceeding is pending under Chapter 7, 11, or 13 of Title 11 of the United States Code. The Debtor further acknowledges that this Agreement is not capable of being assigned pursuant to 11 U.S.C. 365(b)(1).

#### **ARTICLE 15 – OWNERSHIP OF DOCUMENTS**

All documents, as-built plans and specifications resulting from the Project under this Agreement shall be deemed the sole property of the CITY, and the CITY shall have all rights incident to the sole ownership.

The CONTRACTOR shall agree to indemnify and hold harmless the CITY, from liabilities, damages, losses, and costs, including but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and other persons employed or utilized by the CONTRACTOR.

#### **ARTICLE 16 – COMPLIANCE WITH LAWS**

CONTRACTOR shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

#### **ARTICLE 17 - NOTICE**

All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

**Attn:** Maqsood Nasir  
City of Lauderdale Lakes  
4300 NW 36<sup>th</sup> Street  
Lauderdale Lakes, FL 33319-5599  
Tel (954) 535-2712  
Email: [mmnasir@lauderdalelakes.org](mailto:mmnasir@lauderdalelakes.org)

**Copy to:** Financial Services  
City of Lauderdale Lakes  
4300 NW 36<sup>th</sup> Street  
Lauderdale Lakes, FL 33319-5599  
Tel (954) 535-2700  
Fax (954) 535-1892

and if sent to the CONTRACTOR shall be mailed to:

**Contractor:**  
ATC ENGINEERING, INC.  
Attn: Andy Suarez  
2222 NW 14 Street  
Miami, FL 33125  
Tel: (305)-615-1898  
Email: [andy@atcflorida.net](mailto:andy@atcflorida.net)

## **ARTICLE 18 - LIMITATION OF LIABILITY**

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action arising out of the Agreement, so that its liability never exceed the agreed sum of \$1,000.00. CONTRACTOR expresses its willingness to enter into this Agreement with CONTRACTOR'S recovery from the City for any action or claim arising from this Agreement to be limited to \$1,000.00.

Accordingly, and notwithstanding any other term or condition of this Agreement, CONTRACTOR agrees that the City shall not be liable to CONTRACTOR for damages in an amount in excess of \$1,000.00, for any action or claim of the CONTRACTOR or any third party arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes. Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

## **ARTICLE 19 – MISCELLANEOUS**

**19.1** The duties and obligations imposed by this Agreement and the rights and remedies available to the parties and, in particular but without limitation, the warranties, guaranties and obligations imposed upon CONTRACTOR and all of the rights and remedies available to CITY are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee or by other provisions of the Contract Documents. This Article will be as effective as if repeated specifically in the Contract Documents will survive final payment and termination or completion of the Agreement.

**19.2** CONTRACTOR shall not assign or transfer the Contract or its rights, title or interests. The obligations undertaken by CONTRACTOR pursuant to the Agreement shall not be delegated or assigned to any other person or firm. Violation of the terms of this Article shall constitute a material breach of Agreement by CONTRACTOR and the CITY may, at its discretion, cancel the Contract and all rights, title and interest of CONTRACTOR which shall immediately cease and terminate.

**19.3** CONTRACTOR and its employees, volunteers and agents shall be and remain an independent contractors and not agents or employees of CITY with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking or venture between the parties.

**19.4** CITY reserves the right to audit the records of CONTRACTOR relating in anyway to the work to be performed pursuant to this Agreement at any time during the performance and term of this Agreement and for a period of three (3) years after completion and acceptance by CITY. If required by CITY, CONTRACTOR agrees to submit to an audit by an independent certified public accountant selected by CITY. CONTRACTOR shall allow CITY to inspect, examine and review the records of CONTRACTOR at any and all times during normal business hours during the term of the Contract.

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

**19.6** This Agreement shall be governed by the laws of the State of Florida, and venue for any action shall be in Broward County, Florida.

**19.7** Should any part, term or provision of this Agreement be decided by the courts to be invalid, illegal or in conflict with any state or federal law, the validity of the remaining portion or provision shall not be affected.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the date first written above.

As to the CONTRACTOR on the \_\_\_\_\_ day of \_\_\_\_\_, 2026.

**ATC ENGINEERING, INC.**

\_\_\_\_\_  
Corporate Seal

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorized Name, Title

As to the CITY on the \_\_\_\_\_ day of \_\_\_\_\_, 2026.

**SEAL OF THE CITY OF LAUDERDALE LAKES**

\_\_\_\_\_  
Venice Howard, City Clerk

\_\_\_\_\_  
Veronica Edwards Phillips, Mayor

APPROVED AS TO FORM

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

**ALL EXHIBITS WILL BE ATTACHED HERE**



City of Lauderdale Lakes

## Procurement

Aazam Piprawala, Procurement Administrator  
4300 NW 36th Street, Lauderdale Lakes, FL 33319

### PRELIMINARY

### EVALUATION TABULATION

ITB26-6310-18B Citywide Drainage Improvements (NW 39th Street From NW 34 Way to NW 31 Avenue )

RESPONSE DEADLINE: January 9, 2026 at 10:00 am

Report Generated: Friday, January 9, 2026

### SELECTED VENDOR TOTALS

Vendor	Total
BACO Engineering Contractor, Inc	\$1,449,978.40
Atc Engineering Inc	\$1,469,071.10
Wrangler Construction	\$1,596,979.03
FG Construction, LLC	\$2,017,168.26
JD Backhoe, Inc.	\$2,160,134.66
Pabon Engineering, Inc	\$2,202,572.00
Homestead Concrete & Drainage	\$2,296,282.10
Johnson-Davis Incorporated	\$2,401,298.00

**PLEASE NOTE THAT THE ABOVE RESULTS ARE ONLY PRELIMINARY AND HAVE NOT YET BEEN FULLY EVALUATED. IN NO WAY ARE THESE RESULTS AN INDICATION OF AWARD.**

BACO Engineering Contractor, Inc did not provide Bond as specified in Solicitation and was found non-responsive.

ATC Engineering Inc has been found to be the Responsible, Responsive Lowest vendor following the evaluation process.