Town Council

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931

Agenda **Monday, June 15, 2026** **9:00 AM**

ORDER OF BUSINESS

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

V. PUBLIC COMMENT

VI. PRESENTATIONS

A. Strategic Planning Update to Town Council

VII. LOCAL ACHIEVEMENTS AND RECOGNITIONS

VIII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

A. Appointment of Members to the FY26 Anchorage Advisory Committee (AAC)
Appointment of Members to the FY26 Anchorage Advisory Committee

B. Appointment of Members to the FY26 Bay Oaks Recreational Campus Advisory Board (BORCAB)
Appointment of Members to the FY26 Bay Oaks Recreational Campus Advisory Board

IX. APPROVAL OF MINUTES

A. Management & Planning - May 7, 2026

B. Town Council - May 18, 2026

X. CONSENT AGENDA

A. Resolutions 26-128 through 26-131; Extension of Local Emergency - Tropical Storm Debby
A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT

LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

B. Resolutions 26-132 through 26-135; Extension of Local Emergency - Hurricane Helene

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE) PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

C. Resolutions 26-136 through 26-139; Extension of Local Emergency - Hurricane Milton

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE MILTON, PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

XI. ITEMS REMOVED FROM CONSENT AGENDA

XII. PUBLIC HEARINGS

A. Ordinance 26-09; FP&L Meter Installation Above FEMA Required Flood Elevation

This legislative agenda item is a Second Reading and Final Public Hearing on proposed Ordinance 26-09.

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE III DIVISION 3 SECTION 34-638 OF THE LAND DEVELOPMENT CODE CREATING A NEW EXCEPTION TO MINIMUM SETBACK REQUIREMENTS REDUCING MINIMUM SETBACKS TO ACCOMMODATE NEW FLORIDA POWER AND LIGHT REQUIREMENTS FOR PLATFORMS TO LOCATE AND PROVIDE SERVICE TO ELEVATED ELECTRIC METERS; PROVIDING CRITERIA AND CONDITIONS FOR THE PERMITTED ELECTRIC METER EQUIPMENT AND ASSOCIATED PLATFORM, ACCESS STAIRWAYS AND RELATED STRUCTURES; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR

CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

XIII. ADMINISTRATIVE AGENDA

A. Special Event: Santini Farmers Market

Approval of a Special Event for the Santini Farmers Market to be held every Sunday, Tuesday, and Thursday from October 2026 through May 2027 at Santini Marina Plaza, located at 7205 Estero Boulevard, from 9:00 AM to 1:00 PM, as requested by Linda Miller of Shop Local Productions, including approximately 42 vendor spaces featuring produce, baked goods, food trucks, arts, crafts, boutique goods, and other local retail vendors, subject to further approval by the Fort Myers Beach Fire Control District and the Lee County Sheriff's Office.

B. Special Event: Fort Myers Beach Market

Approval of a Special Event for the Fort Myers Beach Market to be held every Friday and Saturday from October 2026 through May 2027 at Times Square, located at 1000 Estero Boulevard, from 9:00 AM to 2:00 PM, as requested by Linda Miller of Shop Local Productions, including approximately 42 vendor spaces featuring artisan crafts, boutique merchandise, handmade goods, specialty retail items, local art, and other locally sourced products, along with event setup, operations, and breakdown, subject to further approval by the Fort Myers Beach Fire Control District and the Lee County Sheriff's Office.

C. Resolution 26-140; Joint Resolution for CDBG, HOME, and ESG Programs for FY2026, 2027, and 2028

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING THE MAYOR'S SIGNATURE AND APPROVAL OF THE JOINT RESOLUTION WITH THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS AND THE TOWN OF FORT MYERS BEACH PERTAINING TO AN URBAN COUNTY COOPERATION AGREEMENT FOR FEDERAL FISCAL YEARS 2026 TO 2028; AUTHORIZING THE TOWN MANAGER TO EXECUTE ANY ADDITIONAL DOCUMENTS NEEDED TO IMPLEMENT AND ADMINISTER THE TOWN'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT HOME INVESTMENT PARTNERSHIP AND EMERGENCY SOLUTIONS GRANT PROGRAMS FOR FEDERAL FISCAL YEARS 2026, 2027, AND 2028; AND PROVIDING AN EFFECTIVE DATE.

D. 26-123, FDEM HMGP Sub-Recipient Agreement H1360 – Multiple Properties Elevation (Project 4673-312-R)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SUBRECIPIENT AGREEMENT H1360 WITH THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT FOR HMGP PROJECT NUMBER 4673-312-R FOR TOWN OF FORT MYERS BEACH MULTIPLE PROPERTIES ELEVATION IN THE AMOUNT OF

$5,688,229.25; AUTHORIZING THE TOWN MANAGER TO ADMINISTER THE AGREEMENT AND PROGRAM INCLUDING EXECUTING ALL RELATED DOCUMENTS, ATTACHMENTS, AND CERTIFICATIONS; PROVIDING FOR AN EFFECTIVE DATE.

E. Resolution 26-105, ITB 26-13-PW Roadway, Curb, and Right-of-Way Repair & Reconstruction Services

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO AWARD ITB-26-13-PW TO PERSONS SERVICE CORP AS THE LOWEST, RESPONSIVE AND RESPONSIBLE BIDDER; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND PERSONS SERVICE CORP SUBJECT TO LEGAL REVIEW AND TO EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; PROVIDING FOR AN EFFECTIVE DATE.

F. Resolution 26-127, ITB 26-14-PW Irrigation and Landscaping Installation, Repair, and Maintenance

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO AWARD ITB-26-14-PW TO TIDEWATER LANDSCAPE OF FLORIDA, LLC AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND TIDEWATER LANDSCAPE OF FLORIDA, LLC SUBJECT TO LEGAL REVIEW AND TO EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; PROVIDING FOR AN EFFECTIVE DATE.

G. Resolution 26-103, RFP-26-11-ES Disaster Debris Removal and Disposal Services Recommendation

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING CONTRACTS WITH 1) CROWDERGULF JOINT VENTURE, INC., AND 2) T.F.R ENTERPRISES, INC., AS PRIMARY AND SECONDARY CONTRACTORS FOR DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES AS RANKED, RECOMMENDED AND SELECTED BY THE TOWN COUNCIL AT THEIR MEETING ON MAY 18, 2026; AUTHORIZING THE TOWN MANAGER TO SIGN THE CONTRACTS WITH THESE TWO FIRMS; AND PROVIDING FOR AN EFFECTIVE DATE.

H. Resolution 25-104; Piggyback of Electrical Services with Brittania Electric II, LLC and Gulf Shore Electric, L.L.C.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AGREEMENTS FOR ELECTRICAL SERVICES WITH BRITTANIA ELECTRIC II, LLC AND GULF SHORE ELECTRIC, LLC BASED ON PRICING COMPETITIVELY PROCURED BY LEE COUNTY; AUTHORIZING THE MAYOR OR TOWN

MANAGER TO SIGN THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

I. Resolution 26-126, Third amendment to Meter Replacement Project

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A THIRD AMENDMENT WITH NATIONAL METERING SERVICE ("NMS") TO AUTHORIZE A METER MODEL CHANGE FROM A RADIO FREQUENCY (RF) MODEL TO A CELLULAR (CELL) MODEL FOR THE REMAINING 1 ½, 2, 3, 4, 6 INCH METER SIZES AND METER ANTENNAS INCREASING THE AMENDED PRICE BY $525,909.00 FOR A NEW TOTAL OF $2,446,761.00 TO UTILIZE CELLULAR TECHNOLOGY FOR THE ENTIRE ISLAND'S DISTRIBUTION SYSTEM FURTHER PROVIDING A RELIABLE, SAFE, AND EFFICIENT METER AND DISTRIBUTION MONITORING SYSTEM; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE THIRD AMENDMENT TO THE AGREEMENT WITH NMS; AND PROVIDING FOR AN EFFECTIVE DATE.

XIV. FINAL PUBLIC COMMENT

XV. TOWN MANAGER'S ITEMS

XVI. TOWN ATTORNEY'S ITEMS

A. Request for Executive Session

Pursuant to Section 286.011(8), Florida Statutes, the Town Council of the Town of Fort Myers Beach, Florida, the Town Attorney is announcing the need and a request for an Executive Session, which will be closed to the public at 1:00 PM on Monday, August 3, 2026 in the 3rd Floor Conference Room at Town Hall, to discuss settlement negotiations and strategy related to litigation expenditures regarding Town of Fort Myers Beach, Florida v. White Sand Properties of Fort Myers Beach, LLC. Case No. 2026-CA-001659, 20th Judicial Circuit, Lee County, Florida. Persons attending the Executive Session include: Mayor Dan Allers, Vice-Mayor Scott Safford, Council Members John R. King, Rebecca Link, and John McLean, Town Manager William McKannay, Town Attorneys Nancy Stuparich, Becky Vose (by Zoom), Chloe Berryman (by Zoom), and Paul Waters (by Zoom), and a court reporter to be announced prior to the commencement of the Executive Session. The Executive Session is expected to last 1 hour and the regular Town Council Meeting will resume thereafter.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

XVIII. ADJOURNMENT

NOTE: THIS MEETING IS STREAMED LIVE ON YOUTUBE.

IF A PERSON DECIDES TO APPEAL A DECISION MADE BY THE COUNCIL IN ANY MATTER CONSIDERED AT THIS MEETING/HEARING, SUCH PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, TO INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH ANY SUCH APPEAL IS TO BE BASED.



In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Board's proceedings should contact the Town Clerk's Office not later than three days prior to the proceedings.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-547**

1. **Request:**

Meeting Date: June 15, 2026

Appointment of Members to the FY26 Anchorage Advisory Committee

Why the action is necessary:

Committee Schoonover resigned on 4/7/26

What the action accomplishes:

Fills vacancies to maintain quorum and ensure AAC can continue advising Town Council on the management and use of Town waters, the Harbor Management Plan, and related assignments from Council.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS	Ordinance	Lizzette Roman, Town Clerk Administrative Coordinator

5. **Background:**

Per Town of Fort Myers Beach Code of Ordinances 2-94 as amended by Ordinance 24-17:

Qualifications and Appointment of Members:

In addition to qualifications, which may be specified for membership by state statutes, Charter, ordinance, or resolution, a person appointed to an agency, board, committee, or commission shall give preference to a registered voter within the town's jurisdiction, a property owner within the town's jurisdiction, individuals with specialized experience or knowledge, individuals who have shown interest in the subject matter, or individuals who have a Fort Myers Beach postal code. No specific experience requirements shall be necessary as a prerequisite to appointment.

Committee Purpose

The anchorage advisory committee shall advise the town council concerning all matters relevant to the management and use of the waters of the town for mooring and anchoring. The anchorage advisory committee shall prepare and submit the Matanzas Harbor Management Plan and any amendments thereto for review and approval by the town council and make recommendations for the establishment of managed municipal anchorages and mooring fields where warranted by objective evidence of environmental damage or user conflicts; or any other topics as assigned by the town council.

Current Status

There are currently **(2) two vacancies** on the Anchorage Advisory Committee.
The Town Clerk's Office has received a total of (2) two applications for appointment to the committee.

Public Notice

The community was initially notified of the vacancies at the Town Council Management and Planning Meeting and subsequently on the Town's website and through social media posts, with applications due to the Town Clerk's Office by the close of business on May 31, 2026.

Council Consideration

As part of the annual appointment process for advisory committees, it is appropriate for Town

Council to review the committee structure and consider opportunities to combine certain committees to increase effectiveness and reduce overlap.

Attachments:
1. O'Leary, Dan AAC
2. Green, Bill AAC

Financial Impact:
None

6. **Alternative Action**
Do not appoint/reappoint members and advertise for the vacancies.

7. **Management Recommendations:**

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator	Created/Initiated - 6/1/2026
Amy Baker, Town Clerk	Approved - 6/3/2026
nancy stuparich, Town Attorney	Approved - 6/5/2026
Amy Baker, Town Clerk	Approved - 6/5/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

Town of Fort Myers Beach

APR 27 2025

Received by:

Town of Fort Myers Beach

Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date: 4/13/2026

Name: O'Leary (Last) | Dan (First) | T (Middle initial)

Telephone Number: 636 346[illegible] 6215

Email Address: danoleary.son@gmail.com

Home Address: 4765 Estero Blvd Fort Myers Beach FL 33931 United States

Mailing Address (if different from home address): 4765 Estero Blvd Fort Myers Beach FL 33931 United States

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ◉ Anchorage Advisory Committee
- ○ Audit Committee
- ○ Bay Oaks Recreational Campus Advisory Board
- ○ Community Resource Advisory Board
- ○ Cultural and Environmental Learning Center Advisory Board
- ○ Historic Preservation Advisory Committee
- ○ Local Planning Agency
- ○ Marine and Environmental Resources Task Force
- ○ Nuisance Abatement Board
- ○ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ◉ No ○

Are you a resident within the Town's jurisdiction? Yes ◉ No ○

Are you an owner of real property within the Town's jurisdiction? Yes ◉ No ○

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ○ No ◉

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

Community Involvement:

Interests / Activities:

Owner: Son of Son Yacht Solutions
100 Ton master captain
Live aboard 50' sport fish for 7 years
Boating, fishing, travel, yoga, fitness, health, helping people

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ○ No ⊘

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed Dan O'Leary Date 4/13/2026

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931 Amy@fmbgov.com

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Office Use Only:

Appointed: Yes _____ No _____ DATE: 4/13/2026

Why are you seeking appointment to this board or committee?

I am a solution-oriented person that works well with others as a team, I will bring an openminded, practical, actionable approach.

I bring 40 years' experience in marking and advertising, building a team of 72 servicing the largest private label food manufacture.

I am currently owner of Son of Son Yacht Solutions.

I am currently a full-time liveaboard on Fort Myers beach/waterfront resident, I want to ensure that decisions reflect real-world experience—not just policy on paper.

I am seeking appointment to the Fort Myers Beach Anchorage Advisory Committee because I want to contribute to the responsible management and long-term sustainability of our anchorage. As someone with a strong interest in the boating community and local environment, I believe it's important to balance access, safety, and environmental stewardship. I value the opportunity to represent community perspectives, support thoughtful policy decisions, and help ensure the anchorage remains a safe and welcoming resource for residents and visitors alike.

Thank you

Daniel O'Leary

Fort Meyers, FL 33931 | 636- 346-6215 | danoleary.son@gmail.com

The Foundation of all partnerships is founded on; Trust, Transparency, Common Purpose, Beliefs & Goals.

EXPERIENCE

2020 to Present

Owner Son of Son Yacht Solutions LLC.

2023 to Present

Sales Executive with Sarasota Yacht Sales.

2023 to 2024

Captain with Marina Jack II 96' Skipperliner, Lunch and dinner vessel.

2019 to Present

As Vice President & Group Account Director at, We Are Alexander, for 23 years; I provided a client solution-based business by scaling a production-based business to include creative, photography, marketing, web & workflow asset management tools with an exponential growth in profit & employment.

While I have experience in client partnerships, creative, marketing, production & web services; my passion lies elsewhere. After 40 years, I took time to achieve my USCG Captains license, & live on my boat while traveling the Midwest waterways, Florida coast, and throughout the Bahamas.

Now, I am looking to change career paths, but utilize my experiences to be a part of a company where I can learn & help grow an already great team. I believe that I have the group leadership skills to be successful in any role thrown my way. I look forward to the opportunity to turn my passions & skills into a new purposeful career.

We Are Alexander (Formerly known as Group 360), St. Louis, MO
Vice President, Group Account Director 2001- February 2019

- Primary point of contact responsible for the partnership & performance of client accounts
- Took our $2.2M account to $12.5M
- Client restructure & Acquisitions with 5 Business transitions
- Developed & led the standardized process for a pricing matrix with an automated integrated billing & financial network reporting across five divisions & 30 categories

- Provided direction & change management leadership post-acquisitions, implementing standardized process across all functions & brought together multiple teams to deliver & sustain best-in-class design & printed packaging material.
- Lead of process & team integration of acquired portfolio while fostering an atmosphere of change management & collaboration
- Led RPF activities for client partner alignment, provided improved rates & incentives while securing quality resourcing & support
- Collaborated with client in time-study metrics to benchmark, measure, & report on process and performance to highlight and act on opportunities for improvement and efficiencies
- Participated in client "90 Day Challenge", introducing system-managed workflow tools & implemented time metric and management processes to reduce overall artwork development time within the commercialization process, netting greater than 60% process time reduction.
- Aligned artwork management systems to more than double previous holdings; creating common artwork development assets & information for internal and external consistency and accessibility.
- Oversaw the IT & equipment proposal to purchase and install laptops, networks, copiers/printers for 25 client customer graphics specialists.
- "Ralston Foods Moose award" (2003): Excellence in supporting the client in the development & launch for the HI-FI process in artwork development through print & color management.

Group 360 Worldwide, St. Louis, MO
Packaging Customer Service Manager, Plant Manager,
Publishing & Commercial Production Manager 1995- January 2001

- Provided guidance with sales and customer service team to insure effective communication and creation of client needs and expectations for successful execution
- Liaison coordinating with the Production team to produce efficiencies and ensuring all client expectations are met/exceeded.
- Led the daily management and development of team members managing a multiclient/category portfolio.

SKILLS & PERSONAL INTERESTS

- **Proficient in:** Relationship Leadership, Budget & Financial Leadership, Process Improvement, Pre-media, Print & Color Leadership, Commercialization, Business & Printer Transitions, System Integration & Re-imagination, Branding & Packaging Design
- **Extracurricular:** Family, Boating, Fishing, Traveling, Yoga, USCG Master 100-Ton Captain's License.

Town of Fort Myers Beach

Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date: 05/31/26

Name: Green (Last) | Bill (First) | (Middle initial)

Telephone Number: (805) 444-4121

Email Address: defensebill@yahoo.com

Home Address: 5117 Estero Blvd., Fort Myers Beach, FL 33931

Mailing Address (if different from home address): Same as above

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)? N/A

If yes, when is your term expiration? N/A

I am applying for appointment to: (Check one)

- ◉ Anchorage Advisory Committee
- ○ Audit Committee ***must attach resume**
- ○ Bay Oaks Recreational Campus Advisory Board
- ○ Cultural and Environmental Learning Center Advisory
- ○ Board Historic Preservation Advisory Committee
- ○ Local Planning Agency ***must attach resume**
- ○ Marine and Environmental Resources Task Force
- ○ Nuisance Abatement Board
- ○ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ◉ No ○

Are you a resident within the Town's jurisdiction? Yes ◉ No ○

Are you an owner of real property within the Town's jurisdiction? Yes ○ No ◉

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ○ No ◉

If yes, what board, etc., and since when? N/A

Why are you seeking appointment to this board or committee?

The waterways around FMB are critical to environmental stewardship and the economic health of our Town. After hurricane Ian, our canal water depth is substantially degraded. One particular interest is assisting with developing a plan for canal dredging. Additionally, assisting with a potential water taxi approach is of interest.

Community Involvement:

Since working full-time, my time has been limited. With retirement near, my time is freeing up and allowing for community participation. We participate in fund raising and special events around town.

Interests / Activities:

Boating. Hanging on the beach. Marine environment stewardship.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ○ No ◉

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed  Date 05/31/26

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2731 Oak Street, Fort Myers Beach, FL 33931 or email: Amy@fmbgov.com

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-546**

1. **Request:**

Meeting Date: June 15, 2026

Appointment of Members to the FY26 Bay Oaks Recreational Campus Advisory Board

Why the action is necessary:

Member Schoonover resigned on April 7, 2026.

What the action accomplishes:

Fills vacancies to maintain a quorum and ensure the Bay Oaks Recreational Campus Advisory Board can continue advising Town Council on matters related to Bay Oaks, the community pool and recreational programming.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS	Ordinance	Lizzette Roman, Town Clerk Administrative Coordinator

5. **Background:**

Per Town of Fort Myers Beach Code of Ordinances 2-94 as amended by Ordinance 24-17:

Qualifications and Appointment of Members:

In addition to qualifications, which may be specified for membership by state statutes, Charter, ordinance, or resolution, a person appointed to an agency, board, committee, or commission shall give preference to a registered voter within the town's jurisdiction, a property owner within the town's jurisdiction, individuals with specialized experience or knowledge, individuals who have shown interest in the subject matter, or individuals who have a Fort Myers Beach postal code. No specific experience requirements shall be necessary as a prerequisite to appointment.

Committee Purpose

The purpose of BORCAB is to serve the town as a community center and recreational facility providing individuals and groups passive and active recreational, social and community activities and events for both residents and visitors. BORCAB members shall work closely and in cooperation with the parks and recreation director, and advise the town council regarding matters concerning the Bay Oaks Recreational Campus and the community pool; or any other topics as assigned by the town council.

Current Status

There are currently **(2) two vacancies** on the Bay Oaks Recreational Campus Advisory Board. The Town Clerk's Office has received a total of (3) applications for appointment to the committee.

Public Notice

The community was initially notified of the vacancies at the Town Council Management and Planning Meeting and subsequently on the Town's website and through social media posts, with applications due to the Town Clerk's Office by the close of business on May 31, 2026.

Council Consideration

As part of the annual appointment process for advisory committees, it is appropriate for Town Council to review the committee structure and consider opportunities to combine certain

committees to increase effectiveness and reduce overlap.

Attachments:
1. Milligan, Beverly A.
2. Scasny, Marcia M.
3. Yelle, Tina M.

Financial Impact:
None

6. **Alternative Action**
Do not appoint/reappoint members and advertise for the vacancies.

7. **Management Recommendations:**

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator	Created/Initiated - 6/1/2026
Amy Baker, Town Clerk	Approved - 6/3/2026
nancy stuparich, Town Attorney	Approved - 6/5/2026
Amy Baker, Town Clerk	Approved - 6/5/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

Town of Fort Myers Beach

APR 2 3 2025

Received by:_____

Town of Fort Myers Beach

Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date: 04/23/20

Name: Milligan (Last) | Beverley (First) | Ann (Middle initial)

Telephone Number: (239) 529-8785

Email Address: myerside@myerside.com

Home Address: 133 Andre Mar Drive, Fort Myers Beach, FL, 33931

Mailing Address (if different from home address): 133 Andre Mar Drive, Fort Myers Beach, FL, 33931

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee *must attach resume
- ◉ Bay Oaks Recreational Campus Advisory Board
- ○ Cultural and Environmental Learning Center Advisory
- ○ Board Historic Preservation Advisory Committee
- ○ Local Planning Agency *must attach resume
- ○ Marine and Environmental Resources Task Force
- ○ Nuisance Abatement Board
- ○ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ○ No ◉

Are you a resident within the Town's jurisdiction? Yes○ No○

Are you an owner of real property within the Town's jurisdiction? Yes○ No○

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes○ No◉

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

As part owner of Myerside, our property is an immediate neighbor of Bay Oaks. We have always supported Bay Oaks through the purchase of Corporate membership for each operating suite at Myerside, along with volunteering and using the facility. As a proven supporter of Bay Oaks and involved in supporting our FMB community, I hope to help, however possible, to rebuild/refresh the facility and grow membership post Ian.

Community Involvement:

Currently President of Friends of the Mound House, Advisor of the recently retired Charter Committee. Past: President of the Woman's Club, Estero Island Taxpayers Association. Donate Myerside property to non profits each year to raise funds during Sand Sculpting. Allowed FPL to use Myerside property for staging while installing street lights. Very involved and supportive of community non-profit events.

Interests / Activities:

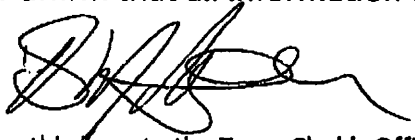
Currently my primary focus has been on rebuilding Myerside and our home post hurricane Ian balanced with family, health and wellness and rebuilding our community services through community volunteering. Sports, culture, entertainment and access for all are key pillars of interest through strategic and positive win/win activities to benefit all parties, while improving services and community.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes○ No◉

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed  Date 02/23/20

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2731 Oak Street, Fort Myers Beach, FL 33931 or email: Amy@fmbgov.com

Beverley Milligan

133 Andre Mar Drive
Fort Myers Beach, Florida
33931

myerside@myerside.com
239-529-8785

Profile

Beverley Milligan is co-owner of Myerside LLC, a property situated in FMB's Heart of the Island. Her grit and determination, coupled with her husband's building and renovation expertise, created a one-acre commercial mixed-use resort, which provided guests with a snapshot of old Florida - cottages, tropical and relaxing. Hurricane Ian destroyed, Myerside Resort and Cottages and Co-owners Beverley Milligan and Roland Weinmann are currently in the permitting phase of rebuilding. Previous to owning and building Myerside, Beverley was a subject matter consultant in accessible media across all sectors of communications. She nurtured and grew numerous non-profit organizations, all dedicated to implementing a business model for accessible communications. She did this successfully through working with stakeholders in policy, engineering, software development, academics, broadcasting, media and disability organizations across North America.

Knowledge, Skills & Abilities

- Ability to mediate and build consensus within competing stakeholder environments.
- Able to successfully build for-profit and not-for-profit organizations
- Strong understanding of North America's media regulatory framework and international regulatory environment.
- Accomplished in media liaison, public speaking and professional training.
- Winner of prestigious awards.
- Volunteer for various local, national and international committees and organizations

Background

Owner - Myerside, LLC
2013 – Present

- In partnership with Roland Weinmann, her husband, rebuilding Myerside post hurricane Ian, bringing back essential services to Fort Myers Beach.

Volunteer Activities

- On-going promotion, support of Non-Profits who operate in FMB's Heart of the Island, (PTO, Little League, Friends of Bay Oaks, Chamber of Commerce)
- Board of Director and Vice President of Friends of the Mound House

Beverley Milligan

133 Andre Mar Drive
Fort Myers Beach, Florida
33931

myerside@myerside.com
239-529-8785

- Founder and President of the Estero Island Tax Payer's Association, instrumental in supporting the approval of the Margaritaville Resort.
- Past President, Fort Myers Beach Woman's Club. In 2016 prevented the sale of the Woman's Club Property on FMB, through events, outreach, awareness and participation from the FMB Community.

Education

- Batchelor of Arts Degree in Linguistics from York University

Languages

- Fluent in English and American Sign Language

Town of Fort Myers Beach

MAY 0 4 2025

Received by:

Town of Fort Myers Beach

Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date: 05/04/26

Name: Scasny (Last) | Marcia (First) | M (Middle initial)

Telephone Number: (239) 405-2065

Email Address: marciascasny@gmail.com

Home Address: 117 Andre Mar Dr Fort Myers Beach, FL 33931

Mailing Address (if different from home address):

Are you currently serving on any of the Town's committees? Yes ○ No ◉

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee *must attach resume
- ◉ Bay Oaks Recreational Campus Advisory Board
- ○ Cultural and Environmental Learning Center Advisory
- ○ Board Historic Preservation Advisory Committee
- ○ Local Planning Agency *must attach resume
- ○ Marine and Environmental Resources Task Force
- ○ Nuisance Abatement Board
- ○ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ◉

Do you have unpaid fines or liens due the Town? Yes ○ No ◉

Are you a registered voter within the Town's jurisdiction? Yes ◉ No ○

Are you a resident within the Town's jurisdiction? Yes ◉ No ○

Are you an owner of real property within the Town's jurisdiction? Yes ◉ No ○

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ○ No ◉

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

I feel that we need more people with young families to respresent us.

Community Involvement:

Member of The Woman's Club.

Interests / Activities:

Health, Nutrition, baseball mom, photography, cooking, canning, butterfly garden, and vegetable gardening.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ○ No ◉

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed  Date 05/04/26

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2731 Oak Street, Fort Myers Beach, FL 33931 or email: Amy@fmbgov.com

FORT MYERS BEACH • ESTERO ISLAND

Town of Fort Myers Beach

Advisory Boards and Committees Application

Complete one form for each application/committee appointment. Your application will be a public record subject to disclosure on request.

Please type or print clearly. Do not leave blanks.

Today's Date: 5-29-26

Name: Yelle (Last) | Tina (First) | M (Middle initial)

Telephone Number: 339-293-9197

Email Address: Tinamyelle@gmail.com

Home Address: 315 Donora Blvd FMB

Mailing Address (if different from home address): Same

Are you currently serving on any of the Town's committees? Yes ○ No ◔

If yes, which committee(s)?

If yes, when is your term expiration?

I am applying for appointment to: (Check one)

- ○ Anchorage Advisory Committee
- ○ Audit Committee *must attach resume
- ◔ Bay Oaks Recreational Campus Advisory Board
- ○ Cultural and Environmental Learning Center Advisory
- ○ Board Historic Preservation Advisory Committee
- ○ Local Planning Agency *must attach resume
- ○ Marine and Environmental Resources Task Force
- ○ Nuisance Abatement Board
- ○ Public Safety Committee

Have you been convicted of a felony, an offense involving moral turpitude while in office? Yes ○ No ✓

Do you have unpaid fines or liens due the Town? Yes ○ No ✓

Are you a registered voter within the Town's jurisdiction? Yes ✓ No ○

8/2025

Are you a resident within the Town's jurisdiction? Yes ☑ No ☐

Are you an owner of real property within the Town's jurisdiction? Yes ☑ No ☐

Are you currently serving on a board, authority, committee or commission for another governmental agency? Yes ☐ No ☑

If yes, what board, etc., and since when?

Why are you seeking appointment to this board or committee?

Bay Oaks is the Heart of the Island, for years I have taken my kids there for swim lessons & After school program. Bay Oaks provided a great opportunity for me to meet other parents & my children to make lifelong friends. I enjoyed the benefit now I want to give back.

Community Involvement:

A member of the fmb Lions club. Event Planner for the shrimp festival. Also sponsorship & merch chair for the festival.

Interests / Activities:

I like event planning & marketing. when I'm not to busy with my three kids I love gardening.

You may attach a resume in addition to the above information.

Do you qualify for Special Exemptions per § 119.071(4)(d)3., F.S. Yes ☐ No ☑

If yes, fill out Public Records Exemption Request form and submit with the application.

I swear or affirm that all information on this form is true and accurate.

Signed [signature] Date 5-29-26

Please return this form to the Town Clerk's Office, Town of Fort Myers Beach, 2731 Oak Street, Fort Myers Beach, FL 33931 or email: Amy@fmbgov.com

8/2025

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-575**

1. **Request:**

Meeting Date: June 15, 2026

Management & Planning - May 7, 2026

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**
APPROVAL OF MINUTES

3. **Requirement/Purpose:**

4. **Submitter of Information:**

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5. **Background:**

Attachments:
1. Draft MandP minutes 5.7.26

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**
Amy Baker, Town Clerk Created/Initiated - 6/4/2026

Fort Myers Beach Management & Planning Session

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931

Minutes **Thursday, May 7, 2026** **9:00 AM**

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members Present: Mayor Dan Allers, Vice Mayor Scott Safford, and Council Members John King, Rebecca Link, and John McLean.

II. PLEDGE OF ALLEGIANCE

III. ITEMS FOR DISCUSSION

A. Strategic Plan — FGCU

Town Council Strategic Plan — USF Collaboration

Angela Crist of USF Florida Institute of Government provided that this was part two of the second forum. She welcomed the newly elected Town Council members. She introduced the rest of her team, including Dr. Stephen Neely, and Brittany Tibbett. She also recognized their partners with SPC Collaborative Labs: Tina Fischer, Annemarie Boss, PJ Petrick, and Jonathan Massie. After providing a brief overview of the agenda, she emphasized the participatory nature of the process. Data and information had been gathered from different stakeholder groups, and real-time records were completed. Figures collected from previous steps were then used for subsequent stages. She announced that all documents were available on the town's website.

Responding to Mayor Allers' request, Ms. Crist noted that work had begun around January 2025 and that Phase One, which included a Town Council Kickoff, stakeholder interviews, a resident survey, two community forums, an employee survey, and the Employee Focus Group Forum, concluded around November 2025. This session would finish 2.4a of the timeline. Following this meeting, a draft version of the final report will be presented at the June 15, 2026 Town Council meeting. Phase Three would then focus on the implementation of the plan. She acknowledged Town Manager McKannay and his team for their excellent work.

She reported that the work done so far represents a culmination of numerous meetings and information gathering sessions. The proposed vision was as follows: an eclectic coastal community where you can safely live, prosper, and enjoy island life. She also provided the recommended mission statement: The Town of Fort Myers Beach serves and protects our coastal community by fostering safety, sustainability, and economic vitality. She requested that the participants review the core values and guiding principles. These, along with the vision and mission, make up the core of the strategic plan. She reminded the participants that the guiding principles are non-negotiable and serve as the foundation for communication and interaction. Currently, there are, in addition to the 18 goals and 44 objectives, five strategic themes: Infrastructure, Leadership, Communications, Community & Economic Development, and Environmental Sustainability.

Council Member Link confirmed with Ms. Crist that residents can view the documents through the "Strategic Plan" page on the town's website. Mayor Allers asked if the homestead property tax issue was brought up in the team's conversations. Ms. Crist responded that local governments are experiencing a lot of uncertainty from the State and that they may need to take time to reassess and regroup. There will be studies available in the future, and she hopes that they can be accessed before the impact reaches the town. Council Member Link commented that change is inevitable and that, while reprioritization may occur, the strategic plan remains as a goal and source for guidance.

Finance Director Joe Onzick provided an overview of the status of the bridge loan. The town has borrowed $11.9 million and plans to use $9.7 million.

There is a remainder of $2.2 million which can be utilized in the future. The Town has received $7.6 million in state revenue replacement grant, which is held aside for the purpose of repayment. That same fund has also accumulated almost $1.2 million in interest. The town will need to identify a funding source for the remaining amount. Mr. Onzick explained that the $2.2 million that is currently not in use can be utilized to repay the loan. He believes that the town must repay by 2033. Until the bridge loan is paid, the town is limited by its restrictions and would not be able to use non-ad valorem revenue to start any new programs or fund any capital improvements.

Anything that comes into the general fund, aside from property tax, must go towards repayment of the bridge loan, after deducting the essential operating expenses. Revenues cannot be pledged for any type of debt the town considers, such as the issuance of bonds. The town would, however, be able to use grants and restricted revenue, including those from park and road impact fees, the gas tax, savings set aside for capital replacement, and the utility fund. Ms. Crist noted that this was an excellent example where, if repayment occurs, the focus may shift, but the goals and objectives would not. She referred the participants to the strategic themes as well as their definitions and goals.

Deputy Town Manager Traci Kohler explained what the Strategic Plan reporting platform would look like in the future. The public will be able to see the overall plan and individual goals.

The internal view will display goals and objectives. Mayor Allers commended the Deputy Town Manager and the staff who worked on this digital tool, which he considers to be an excellent form of good communication and transparency.

Ms. Fischer also acknowledged the team and their work and response to feedback. She emphasized that the goal was to make everything measurable and that the success metrics were meant to be a starting point. From the 18 goals, the participants of this session will identify the top three to five. They will start the prioritization process by going through each theme and selecting the two that they desire to be prioritized. They will then narrow down to the desired number. Mayor Allers confirmed that they will be focusing on the goals and not on the strategic themes, which are considered to be equally important. Council Member Link asked what would happen to the goals that were not selected. Ms. Fischer stated that those would not be removed or cast aside. Reprioritization may occur in the future, and she cited the homestead property tax issue as a potential catalyst. The leadership group will have the opportunity to weigh in on the priorities for that respective strategic theme. She provided that participants will rank each item based on community impact, financial sustainability, and do ability. Discussions and questions were allowed during the polling period. Vice Mayor Safford commented that the school is missing from the strategic plan and believes that this should be included. Town Manager McKannay provided that he would be willing to add the school as an objective under one of the goals.

There was a follow-up question on how new items could be added. Ms. Fischer answered that, during Phase Three, there will be discussions on the frequency of plan review, the manner in which information will be relayed, and the process for incorporating changes. Ms. Crist added that, because the town does not have complete control over the school, it is essential that this aspect is placed in the correct area of the plan. Ms. Fischer noted that the team would take this feedback and include it in the final report. She also invited other suggestions for additions. Council Member Link confirmed with the team that the strategic plan is flexible and allows for shifts over time through reprioritization and modifications in the action items and tasks. The themes, goals, and objectives should, on the other hand, remain the same.

Mayor Allers asked how a public information request would be handled for the polled items. Ms. Fischer responded that raw data of the voting can be provided. Ms. Crist requested that participants review the worksheet, including the anticipated timeline and proposed success metrics, during the decision-making process. Council Member Link asked that Finance Director Onzick notify members before voting on any issues that may be financially impacted by the bridge loan. Town Manager McKannay confirmed that Mr. Onzick would be available. Mayor Allers noted that he and the Town Manager can also provide information as needed.

The following two goals received the highest results for the first round: Goal A.3 (well-lit and safe "Town-owned" streets and sidewalks) and Goal A.1 (robust, adaptable, and capable infrastructure systems).

There was discussion on whether goals with projects that are closer to completion should receive the most attention and prioritization, as they rank higher in the do ability factor and thus increase their total score. Without objections, the group moved forward with Goals A.3 and A.1.

In the second round, Council selected Goal B.1 (succession planning through organizational alignment) and Goal B.4 (organizational effectiveness). The leadership team, however, selected Goal B.4 (organizational effectiveness) and Goal B.3 (workforce development). Deputy Town Manager Kohler stated that the standardized performance evaluation framework, which was described in the third goal, was important to her. Staff member Hauge emphasized the importance of developing a good workforce, which he believes is connected to the other items and outcomes. He asserts that productivity would be enhanced under this system. Mayor Allers noted that there was never a succession plan for this island. Ms. Fischer provided that the first objective under Goal B.1 was "to conduct an organizational assessment of the Town's workforce structure to validate operational best practices for success," with a timeline starting next year. She asked the participants if they were in agreement to move forward with Goal B.3 and Goal B.4. Vice Mayor Safford asked Human Resources Director Talissa Oliveira what her top goal would be. She responded that succession planning was the most critical for her. Council Member Link, Council Member McLean, and Vice Mayor Safford expressed their preferences to defer to Ms. Oliveira's opinion and to move forward with Goal B.1. The final decision was to move forward with Goal B.1 and Goal

B.4. In the third round, Goal C.1 (transparent, responsive, and inclusive communication and leadership) and C.4 (emergency management services) were tied as the top goals. Council Member McLean requested additional feedback from the leadership team on the first objective under Goal C.3 (to "ensure 95% of public inquires routed through Communications receive acknowledgment within two business days"). Town Manager McKannay commented that this was one of the first directives or goals that he gave to staff and noted its importance and the intention to maintain this aspect no matter what. He acknowledged its connection with overall organizational effectiveness and the opportunities to expand. Public Information Officer Abilgail Eberhart explained that the number is 95% because there is no established definition for a public inquiry yet. This value can be increased to 100% once there is a clear understanding of what should receive a town response. Mayor Allers remarked that Goal C.2 and Goal C.3 are encompassed in the first goal, which is why it may have ranked so highly in the results. Council Member Link asked her if she agreed to the ranking. PIO Eberhart stated that she did. For the fourth round, Goal D.1 (economic growth through business development and year-round tourism) was selected, and there was a tie between Goal D.3 (supportive redevelopment decisions for a thriving, resilient island community) and Goal D.4 (stewardship of community assets). Community Development Director Frankie Kropacek stated that the community needs an avenue that focuses on both the residential and commercial side.

He also acknowledged the tourism aspect, mentioning that the town has been a cash cow for the TDC but does not see the benefits from that. The bed tax that is collected does not go directly to the town. He provided that Goal D.2, which revolves around short-term rentals, is a factor but is not an essential driver for this community. He noted that, once they collect one year's worth of data from the new software and management system, there will be a better idea on how these rentals will fit into the overall picture. He highlighted the importance of redevelopment and resilience.

Mayor Allers indicated that Goal D.4 could tie into Goal D.1 and that Goal D.2 could roll into Goal D.1. Vice Mayor Safford expressed his agreement. Ms. Fischer reported Ms. Crist's recommendation that the school item could fit within Objective D.4.2. Mayor Allers expressed his preference to place it under Objective D.1.4., which can then be rolled into Objective D.1.3. Town Manager McKannay suggested that it may fit under both objectives, as the town will need to develop ways to acquire the funding. Council Member Link asked if the town owns the user-friendly software for the permitting process for Objective D.1.1. Mr. Kropacek answered that this system belonged to the town. Mayor Allers confirmed that the participants would like to move forward with Goal D.1 and Goal D.3. The top results for the last round were Goal E.1 (shoreline and coastal resilience) and Goal E.2 (storm surge mitigation), respectively. Mayor Allers provided that Goal E.3 could roll into Goal E.1.

Vice Mayor Safford acknowledged the need to clean up the canals and conduct dredging but also mentioned that the do ability factor is not there for the short-term. Council Member McLean expressed his agreement. Town Manager McKannay stated that he would have placed the second goal as his highest priority but acknowledged that it was one of the two selected to move forward.

Ms. Fischer provided that participants will now vote for three of the items that were chosen from the previous rounds. Mayor Allers confirmed that there is no ranking among the choices that they are voting for. Goals A.1, D.1, C.1, and E.2 were the top choices. The group ultimately decided to move forward with the top four items.

Ms. Fischer announced that there was a visual illustration, with Jonathan Massie presenting his work. She then outlined the next steps. The report would be submitted on June 1, 2026, with a presentation on June 15, 2026. There is a planned session scheduled in July. She mentioned that there will be opportunities to review changes and pivot, as needed, at an implementation session. She emphasized that the entire plan would be moving forward. There was discussion amongst members of Council on the re-emerging aspect of the town's vision. Participants agreed that the vision should be aspirational, as re-emergence has already started. Council Member Link inquired about the relationship between the comprehensive plan and the strategic plan. Ms. Crist responded that the two documents are complementary to each other but also acknowledged the different content that each provides. She provided that the comprehensive plan was a part of the strategic plan. Ms. Fischer referred the participants to Objective C.1.4. She recognized the town's progress and thanked the attendees.

IV. AGENDA MANAGEMENT

A. May 2026

Council Member Link requested that public benefits be considered at a future Management & Planning Session. Vice Mayor Safford asked if she would like a combined meeting with the Local Planning Agency. She noted that she would like to hear from other members of Council but expressed her preference for a joint meeting. Town Manager McKannay stated that this type of meeting would be possible. Mayor Allers requested additional information on the discussions at the session. Council Member Link stated that she wished for an opportunity for the members to think about public benefit and provide criteria so that developers would know what would be evaluated.

Town Manager McKannay offered two potential dates. There was general agreement to schedule this item for the August session.

V. ADJOURNMENT

The meeting was adjourned, without objection, at 11:11 a.m.

DRAFT

Fort Myers Beach Town Council

Town Hall Council Chambers
6231 Estero Boulevard
Fort Myers Beach, FL 33931

Minutes **Monday, May 18, 2026** **9:00 AM**

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members Present: Mayor Dan Allers, Vice Mayor Scott Safford, Council Members John King, Rebecca Link, and John McLean.

II. INVOCATION

Town Clerk Amy Baker.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF FINAL AGENDA

Mayor Allers provided some updates: 1) Anchorage Advisory Committee Chair Chris Riedel King will provide a committee report; 2) Beth Cahill will present a check on behalf of What's Up FMB; and 3) The representatives from the Florida Department of Transportation (FDOT) are running late and will provide a presentation later in the meeting.

Council Member King moved to approve the final agenda, seconded by Council Member McLean.

The motion carried unanimously.

V. PUBLIC COMMENT

None

VI. LOCAL ACHIEVEMENTS AND RECOGNITIONS

A. Proclamation - Safe Boating Week

Mayor Allers read the proclamation designating May 16-22, 2026, as the Town of Fort Myers Beach Safe Boating Week. Harbormaster Curtis Ludwig, on behalf of the U.S. Coast Guard Auxiliary, accepted the proclamation. John McGarry, of the U.S. Coast Guard Auxiliary Flotilla 91, later thanked the town for making boat safety a priority. He noted the unit's interest in preventing tragedies. Mayor Allers expressed his thanks for their work on keeping the community safe.

VII. ADVISORY COMMITTEES ITEMS / REPORTS / APPOINTMENTS

Anchorage Advisory Committee Chair, Chris Riedel King, provided a report on behalf of AAC and MERTF. The two Town Council Advisory Committees held a joint session on May 13, 2026. The Town Manager had requested that the groups consider recommendations for guidelines that the Town should explore to govern operations of potential water taxi and/or water ferry service on the island. She emphasized that their remit was not on whether this should be allowed, but on considering regulations to govern these operations. The committees also discussed whether the town's current policies around algae cleanup were sufficient or needed modifications, which was the second item on the agenda. While she will not be providing recommendations in the report for this meeting, she will be presenting a brief overview to provide the body with a general understanding of the discussions from that joint session. The formal proposals will come before Council in June or August. The number one concern for water taxi and water ferry services is enforcement of existing speed zones in the bay. The committees have acknowledged that the definitions around different zones. The speed limits were challenging, and their application varies by size and shape. AAC Chair King noted that this was not a new concern, as she had previously brought this to Council's attention last fall. She had reported that Mari Togerson had convened with various parties, including the town and marine operations, as well as stakeholders from Pod Protectors, the FMB Chamber, LCSO, FWCLE, USCGA (U.S. Coast Guard Auxiliary). There were many positive outcomes from this meeting, including the creation of a speed zone map that is posted on the Chamber's website and distributed at Cruisers Appreciation Day. She requested that the map also be uploaded to the town's website. It is her understanding that Mari Torgerson is also creating a mobile application that will allow voters to see where the speed zones are. She emphasized the importance of increased and coordinated enforcement. Speed kills manatees, destroys seagrass, and damages shorelines, seawalls, and boats at marinas and in the mooring field. AAC and MERTF both urge Council to get involved in creating a more robust, consistent, coordinated effort around speed enforcement in the bay. She identified the following potential future recommendations: 1) to create a permitting process, in alignment with existing permitting processes, for other similar water-based operations; 2) to maintain compliance with all existing federal, state, county, and local laws, regulations, ordinances, and licensing requirements; 3) to establish a maximum number of licenses, permits, operators allowed for each type of enterprise as well as the maximum vessel size allowable; 4) to impose a fee for the right to operate and/or use any town facilities with special consideration around parking at docking facilities; and 5) to set minimum levels of insurance and liability coverage required, limitations on hours, days, months, of operation, and requirements for compliance with existing noise and loud music restrictions. She noted again that these were not formal recommendations, which will be presented in the future. The committees agreed that the existing algal accumulation policy is adequate. There were discussions on equal application for both the south and north ends of the island. The groups also believed that the policy should allow staff to use their best judgment under any special circumstances and based on available resources.

DRAFT

Staff should be given the opportunity to make common sense decisions, particularly when concerns about safety, health, or negative island perceptions might come into play. AAC Chair King listed a few notes from MERTF and AAC members: 1) there was support for AAC Member Lurie's request to consider alternatives to fireworks in the future, given health and safety concerns; and 2) there was agreement on MERTF Member Rusk's item of increasing enforcement of regulations on property maintenance. She expressed her appreciation for the joint session and asked the Council for their continued support. She noted that the committees would like to hold at least one joint meeting per year to discuss overlapping items.

Council Member Link asked if the next meeting would be a joint session. AAC Chair King responded that she is currently drafting a list of recommendations, which will be considered by each committee during the month of June. AAC and MERTF will be meeting separately. Council Member Link requested additional input from the committees on fireworks and their environmental impacts.

Council Member McLean stated that he and Council Member King were present for the joint meeting. He stated the session was very productive.

Mayor Allers acknowledged AAC Chair King and both committees for their work.

VIII. PRESENTATION

Beth Cahill, treasurer of What's Up FMB, shared a message with the Council, on behalf of the organization's president, Dawn Miller, and vice president, Karen Woodson. She thanked the town for allowing them to be a part of this year's Fourth of July celebration. She noted that this fundraising effort is a reminder of what this island can accomplish when the community comes together. She expressed their gratitude to the Town of Fort Myers Beach for their partnership for Freedom by the Bay and their assistance in creating an event that the entire community would be proud of. More than $129,000 has been raised to support the fireworks display, barge operations, permitting, parade support, and event logistics for this year's celebration. She stated that this contribution represented the community's spirit, collaboration, and shared commitment to keeping traditions like the Fourth of July alive in Fort Myers Beach. She presented the check of $129,000.00 to Council, on behalf of What's Up FMB and the Fort Myers Beach community.

A. Bridge Project Landscaping Updates

Florida Department of Transportation (FDOT) - Update on Landscaping

Darryl Richard, District Landscape Architect and State Transportation Landscape Architect for the State of Florida, briefly presented the changes that have occurred since his last report. He noted that, for this project, bids are due on October 15, 2026. Construction will begin around 30 to 60 days from the deadline and will continue until around spring of 2027. The project is expected to be completed around spring to summer of 2027. There will be a one-year establishment period with the contractor. Margaritaville will take over maintenance around midsummer of 2028. Design Consultant Michael Schultz presented the landscaping details, providing a map, images of the proposed plantings, and street view renderings. Mr. Richard provided that the county is signing onto the maintenance of the project.

There is an agreement That will be executed by the Lee County Board of Commissioners. The county will have public ownership and had requested that the area on the other side of the bridge, by Main Street, be removed.
Mayor Allers requested that the representatives communicate his report of an issue with the pedestrian lights in that area. He also asked for additional information on maintenance of the other side of the bridge. Mr. Richard responded that it was his understanding that TPI would be ready to maintain that area as soon as the establishment period is completed. He can provide a copy of this agreement. After Lee County signs onto the maintenance agreement, DOT will construct the project. There is a separate agreement between Lee County and TPI. Mr. Richard noted that the area in question could be addressed in the future. He said that there would be minor plantings in that location. He provided the possibility of using grant funding to complete that project.

IX. APPROVAL OF MINUTES

A. Town Council - May 4, 2026

Council Member King moved to approve the minutes of the Town Council meeting on May 4, 2026, seconded by Council Member Link.
The motion carried unanimously.

X. CONSENT AGENDA

XI. ITEMS REMOVED FROM CONSENT AGENDA

XII. PUBLIC HEARINGS

A. Ordinance 26-08; Charter Changes

This legislative agenda item is a First Reading and Public Hearing on proposed Ordinance 26-08. If approved at First Reading, a Second Reading and Final Adoption Hearing will be scheduled for June 1, 2026, at 9:00 AM or at another time identified by Town Council.

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA, PROPOSING AMENDMENTS THE FORT MYERS BEACH TOWN CHARTER; PROPOSING CHARTER AMENDMENTS 1) MANDATING ORDINANCES REQUIRING DISCLOSURE IN QUASI-JUDICIAL HEARINGS, AND PROHIBITING UNLAWFUL GIFTS; 2) REVISING THE TOWN COUNCIL COMPENSATION PROCESS; 3) REVISING THE TERM OF TOWN COUNCIL SEATS FILLED BY APPOINTMENT; 4) CLARIFYING THE SERVICE OF THE INTERIM MAYOR; 5) CLARIFYING THE QUALIFYING PERIOD FOR TOWN COUNCIL CANDIDATES; AND 6) PROVIDING FOR THE USE OF THE LEE COUNTY CANVASSING

BOARD; PROVIDING FOR REFERENDA ON THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR BALLOT TITLES AND BALLOT SUMMARIES FOR SUCH REFERENDA; PROVIDING FOR DIRECTION TO THE TOWN CLERK AND COORDINATION WITH THE LEE COUNTY SUPERVISOR OF ELECTIONS; PROVIDING FOR FILING THE REVISED CHARTER WITH THE FLORIDA DEPARTMENT OF STATE; AND PROVIDING FOR FINDINGS, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor Allers read the title of the ordinance. Town Attorney Stuparich provided an overview of the Ordinance. She noted that she has worked with Wade Vos to determine if there were any administrative options available. They found that there were none. She presented the ordinance and the referendum, which is attached as Exhibit A. She provided that the Spanish translation, which is required by statute, is not included in the draft for this meeting, as additional changes may be made at this time. The Town Attorney highlighted the tight timeline, though she will defer to Town Clerk Amy Baker on potential areas of flexibility. There are also opportunities to modify the summary, but not the title, of the referendum.

Mayor Allers asked if the voters would be able to see the exact proposed changes to the language. Town Attorney Stuparich stated that she believed that they would only be able to see the question and the translation. They should not be able to see the actual text revision. She will follow up with additional information at the next meeting. Council Member McLean thanked the Town Attorney for her work on this matter. Council Member Link asked that each of the items be separately considered for questions and comments. Mayor Allers granted this request. She thanked the Charter Review Commission. She expressed her concerns about the charter change related to changing compensation, fearing that allowing a committee to be selected by Council would create an erosion of public trust. She would like to see the provision contain a COLA adjustment and refer to the voters any proposals exceeding this increase. Mayor Allers explained that the provision would only allow the Council to consider increases in compensation for members in future terms. There was discussion on COLA adjustments and inflation.

Human Resources Director Talissa Oliveira added that COLA has been in place for the council members since October 1, 2024, and is issued out every year on October 1. Mayor Allers and Council Member Link both brought up the discrepancy between the frequency of review (three years) and election term lengths (four years). There were further discussions and suggestions related to the selection of members for the committee reviewing compensation. After confirming with Town Clerk Baker, Town Attorney Stuparich noted that there were six committees, not including the Local Planning Agency. Mayor Allers determined that there was a majority in consensus to move forward with this charter change proposal, in its existing form. Council Member Link expressed her concerns about allowing appointments for vacancies for several years. She is against taking this power away from the voter.

Mayor Allers asked for clarification on the definition of a "term" when determining the maximum number that a member can serve. Council Member McLean and Vice Mayor Safford noted the desire to provide a staggering of terms, alternating between three members and two members. Town Attorney Stuparich provided that the current language indicates that members are restricted to two consecutive full terms. Any period of time shorter than a complete term would not count towards the limitation. Council Member Link noticed that only one of the two questions provided language with the phrase "interim mayor." Town Attorney Stuparich noted the need to update this language for consistency reasons, though she also explained that there is a limitation of one topic per question. She reminded the Council that only the questions would be on the ballot and confirmed the adjustments for the second, third, and fourth items.

No public comment.

Council Member King moved to approve Ordinance 26-08; Charter Changes for second reading on June 1, 2026 at 9:00 a.m., seconded by Vice Mayor Safford.

The motion carried unanimously by roll call vote.

XIII. ADMINISTRATIVE AGENDA

A. Special Event: Coastal Cars & Coffee

Approval of a Special Event for the Coastal Cars & Coffee classic car showcase to be held on May 23, June 20, July 18, August 15, and September 19, 2026, at Santini Plaza, located at 7205 Estero Boulevard, from 8:30 AM to 11:00 AM, as requested by What's Up FMB, including authorization for the recurring event and the rental of 22 parking spaces at Beach Access 36 (Wastina Way) for overflow parking, subject to further approval by the Fort Myers Beach Fire Control District and the Lee County Sheriff's Office.

Mayor Allers read the item into the record. Town Manager McKannay stated that representatives of What's Up FMB were present. Staff has reviewed the request. They are currently awaiting final feedback from the Lee County Sheriff's Office and the Fort Myers Beach Fire Control District, but they do not foresee any issues.

Vice Mayor Safford requested additional information on the parking spaces rented at Wastina Way. He noted the large distance. Ms. Cahill responded that these spaces were related to the lunch event. Mayor Allers confirmed that this was a rental. Council Member McLean provided some positive remarks on the event.

Council Member McLean moved to approve the Special Event "Coastal Cars and Coffee" for May 23, June 20, July 18, August 15, and September 19 at Santini Plaza, as well as the subsequent drive down the boulevard to a party at The Whale, seconded by Council Member Link.

Mayor Allers asked the maker of the motion if there was intent to allow use of these parking spaces without charge. Council Member McLean wished to open this matter for discussion.

Council Member Link expressed her concern about providing these spaces when they have not been provided for past events. Mayor Allers acknowledged this issue but also pointed to the parking revenue that would be generated from the 4th of July celebration, noting that this could be seen as a motion of goodwill. Vice Mayor Safford expressed his agreement. Town Manager McKannay reminded Council that there were five events. Council Member King recommended adding an end time for the use of these parking spaces.
Council Member McLean amended his motion so that it now reads: "to approve the Special Event "Coastal Cars and Coffee Classic Car Showcase" to be held on May 23, June 20, July 18, August 15, and September 19 at Santini Plaza, located at 7205 Estero Boulevard from 8:30 a.m. to 11:00 a.m., as well as authorizing the use of the Wastina Way Overflow Parking Lot for 22 spaces from 8:30 a.m. to 2:00 p.m., subject to further approval by the Fort Myers Beach Fire Control District and the Lee County's Sheriff's Office." The seconder of the motion agreed to the changes.
The motion carried unanimously by roll call vote.

B. Special Event: The Whale Anniversary Celebration

Approval of a Special Event for The Whale Anniversary Celebration to be held on June 13, 2026, at The Whale, located at 1249 Estero Boulevard, from 11:00 AM to 9:00 PM, as requested by Dawn Miller of The Whale, including amplified live music and food and beverage service, including outdoor alcohol service subject to ABT approval and extension of premises approval, and subject to further approval by the Fort Myers Beach Fire Control District and the Lee County Sheriff's Office.

Mayor Allers read the item into the record. Blake Colbert, the General Manager of the Whale, provided a brief summary of the request. He noted that this event will be very similar to JobuFest. There will be outdoor amplified music and three covered areas for food and beverage sales. The permit will start at 11:00 a.m. and end at 9:00 p.m.
Mayor Allers asked if the event will be inside, outdoors, or both. Mr. Colbert responded that there will be a stage outside in the parking area for daytime music and regular live entertainment inside. The Mayor also confirmed with him that outdoor alcohol will be contained within the property.
Council Member King moved to approve the Special Event "Whale Anniversary Celebration," seconded by Council Member Link.
The motion carried unanimously by roll call vote.

C. FY26/27 Budget Hearing Dates

Council shall set budget hearing dates for September 2026.

Town Manager McKannay proposed the following dates: Wednesday, September 9, 2026, and Wednesday, September 23, 2026. Council Member King confirmed that the requested start time for the hearings is 5:01 p.m. Vice Mayor Safford indicated a potential conflict but noted that he could skip the first day of his conference. Council Member McLean stated that he had a conflict for the proposed date of September 9, 2026. Town Manager McKannay asked Council Member McLean for alternative dates. The council member provided some dates that he would be available.

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He noted that he wished for a full complement of members for the hearings and provided that he can listen to the recorded first session, if needed. Mayor Allers asked Town Attorney Stuparich if all members needed to be present at the hearing. She stated that she believed this is the case but that she will follow up to confirm. Council Member Link suggested that Council Member McLean participate virtually. She alternatively proposed that the first hearing be rescheduled to September 2, 2026. Town Clerk Amy Baker provided two additional dates: September 14, 2026, and September 28, 2026. She requested Council input on the times and plans for the regular Town Council meetings. Mayor Allers confirmed that all members can be present for the second hearing on September 23, 2026, starting at 5:01 p.m.

Finance Director Joe Onzick noted that staff would be able available for the first week of September. Town Clerk Baker provided that the county meetings are on September 3, 2026, and September 15, 2026. The town is not allowed to meet on those dates. Mayor Allers asked Mr. Onzick if there was a preference for September 2, 2026, or September 4, 2026. The Finance Director responded that it would need to be scheduled for that later date.

Town Clerk Baker mentioned that advertising requirements will prevent the Council from scheduling the first hearing for the third week of September. Mayor Allers requested that this item be postponed to the next meeting and asked Town Attorney Stuparich if a motion is needed. She responded that a motion would not be necessary and noted that Council can revisit this issue at its meetings on June 1 or June 3, so long as the item has been added to the appropriate agenda. Mayor Allers announced that this item will be considered again at the regular meeting of Town Council on June 1, 2026.

D. Collections Management Policy

Approval of Collections Management Policy for the Mound House

Mayor Allers read the item into the record. Town Manager McKannay called upon Breanna Vaccaro, Archaeologist, Collections Manager, and Registrar at the Mound House, who presented a background and summary of the Collections Management Policy.

Council Member McLean requested more information on the recommendations from the reviewer. Ms. Vaccaro stated that these would include the insurance policy, additional details on governance and authority, and further consideration for acquisitions and deaccessioning policies.

Council Member McLean asked about the individual's credentials. She responded that a MAP (Museum Assessment Program) reviewer performed an assessment on the Mound House and provided these recommendations on how the Mound House can become eligible for accreditation. The council member emphasized the importance of accreditation. Council Member Link and Vice Mayor Safford commended Ms. Vaccaro and the Mound House for their work. Council Member King welcomed the presenter and inquired about the enforcement of the policy on conflicts of interest. Ms. Vaccaro noted that this policy would prevent staff, advisory board members, and members of Town Council from maintaining private collections of indigenous artifacts or historical documents.

Enforcement would be conducted by members of Town Council, the advisory board, and/or staff. Law enforcement may also be involved if the individual refuses to remove themselves from that conflict of interest. Town Manager McKannay called upon Jeff Hauge, the Director of Culture, Parks, and Recreation, who provided positive remarks and noted CELCAB's recommendation for approval.

Council Member McLean, as Council Liaison for CELCAB, moved to approve the Collections Management Policy, seconded by Council Member Link.

The motion carried unanimously by roll call vote.

E. Resolution 26-102; Amended and Restated Donation Policy

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AMENDING AND RESTATING THE TOWN'S 2011 DONATION POLICY; PROVIDING FOR DISCRETIONARY GUIDELINES TO NAME TOWN RESOURCES, FACILITIES, EVENTS OR PROGRAMS WHEN ASSOCIATED WITH A FINANCIAL DONATION; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager McKannay called upon Town Attorney Stuparich to provide a brief summary of the request. She highlighted that the new language removes the gift-giving catalog and that there is an added section on naming rights that may be associated with a financial donation to the town.

Council Member King moved to approve Resolution 26-102, seconded by Mayor Allers.

The motion carried unanimously by roll call vote.

F. Resolution 26-096, RFQ-25-17-AD Newton Design Agreement Approval

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AN AGREEMENT BETWEEN THE TOWN AND JR EVANS ENGINEERING, P.A. UNDER RFQ-25-17-AD FOR THE FORT MYERS BEACH ENGINEERING & ARCHITECTURAL SERVICES NEWTON PARK BEACH FACILITY RECONSTRUCTION PROJECT IN A NOT-TO-EXCEED AMOUNT OF $497,750; AUTHORIZING THE EXECUTION OF THE AGREEMENT BY THE MAYOR; AND PROVIDING AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager McKannay provided a brief summary of the request as outlined in the blue sheet and noted that this will be CDBG-DR funding. Council Member McLean inquired about the expected timeline. Elizabeth Fountain, Senior Vice President at

J.R. Evans Engineering, answered that nine to ten months are expected for the design and permitting process. Construction should last between six to seven months. Council Member Link asked if the firm would be submitting permits on behalf of the town. Ms. Fountain complained that J.R. Evans Engineering will be securing all necessary permits, including at the state level (through FDEP and coordination with FWC) and at the local level (through the development order process). The team will also be addressing utility line extensions. There was a follow-up question on compliance with FEMA requirements.

Ms. Fountain confirmed that the project will follow these requirements. Mayor Allers asked for additional information on the design and permitting process. She responded that the initial step would be to determine the actual master site plan, which would contain all major components. Within the first 60 days, the public will have an opportunity to access this plan. The team will be using R2P2 modelling. There was an additional question about capping the seawall. Ms. Fountain replied that they will be incorporating enhancements to that existing wall to achieve the resiliency component of the project. This would also allow for a flood map revision to rezone the property from the higher risk V-Zone. Grade-level restrooms should then be compliant. Council Member Link asked if this matter would go through the Local Planning Agency. Town Manager McKannay noted that it would not be, and Town Attorney Stuparich provided that this would be operational.

Council Member Link moved to approve Resolution 26-096, seconded by Vice Mayor Safford.

The motion carried unanimously by roll call vote.

G. Resolution 26-097, Second Amendment to Tidal Basin Agreement

A RESOLUTION OF THE TOWN OF FORT MYERS BEACH, APPROVING A SECOND AMENDMENT TO AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND TIDAL BASIN GOVERNMENT CONSULTING LLC, TO INCORPORATE ADDITIONAL CDBG-DR AND STATE TERMS TO THE SERVICE PROVIDER AGREEMENT FOR DISASTER RECOVERY AND MITIGATION CONSULTING SERVICES ; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager McKannay provided a summary of the request as outlined in the blue sheet. Council Member Link asked if there was an updated list of additional grants from Mr. Boone at Tidal Basin. Director Kropacek noted that he did not receive a copy. Town Manager McKannay and Deputy Town Manager Traci Kohler have received this list. Council Member King verified that the funding will be through CDBG-DR.

Council Member McLean moved to approve Resolution 26-097, seconded by Council Member Link.

The motion carried unanimously by roll call vote.

H. Resolution 26-101, Second Amendment to Goldman Wolfe, LLC Agreement

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A SECOND AMENDMENT TO THE EXISTING AGREEMENT BETWEEN THE TOWN AND GOLDMAN WOLFE, LLC FOR FINANCIAL CONSULTING SERVICES TO INCREASE THE NOT TO EXCEED AMOUNT FROM $197,600 TO $580,000; AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE RETROACTIVE TO SEPTEMBER 15, 2025.

Mayor Allers read the title of the resolution. Town Manager McKannay provided a summary of the request as outlined in the blue sheet. He commended Human Resources Director Talissa Oliveria for her work. Council Member King thanked Town Manager McKannay and emphasized that the resolution provides a maximum amount, that savings are achieved through the vacancies, and that services will only be utilized as needed.
Mayor Allers confirmed that the firm has worked with the town in the past.
Council Member King moved to approve Resolution 26-101, seconded by Council Member McLean.
The motion carried unanimously by roll call vote.

I. Resolution 26-099, RFP-26-11-ES Disaster Debris Removal and Disposal Services Recommendation

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACCEPTING/REJECTING OR MODIFYING THE RANKING AND DETERMINING 1) CROWDERGULF JOINT VENTURE, INC., 2) T.F.R ENTERPRISES, INC., AND 3) SOUTHERN DISASTER RECOVERY VENDOR AS THE MOST RESPONSIVE AND QUALIFIED FIRMS AS RECOMMENDED BY THE TOWN MANAGER AND SELECTION ADVISORY COMMITTEE BASED ON THE RESPONSES RECEIVED TO RFP-26-11-ES FOR FORT MYERS BEACH DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES; AUTHORIZE THE TOWN MANAGER OR DESIGNEE TO NEGOTIATE WITH THE QUALIFIED FIRMS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Allers read the title of the resolution. Town Manager McKannay provided a summary of the request as outlined in the blue sheet. He commended Deputy Town Clerk Jason Freeman for his work. Mayor Allers highlighted the importance of F-ROC in disaster recovery for the town. He also recognized the Deputy Town Clerk and staff for getting the town's high score. Deputy Town Clerk Jason Freeman provided an overview of the F-ROC program. Mayor Allers re-emphasized the significance of F-ROC and commended the team for their achievements. Town Clerk Amy Baker informed the Council that there would be a primary and secondary vendor. Mayor Allers moved to approve Resolution 26-099, RFP-26-11-ES Disaster Debris Removal and Disposal Services Recommendation, seconded by Council Member King.
The motion carried unanimously by roll call vote.

XIV. FINAL PUBLIC COMMENT

None

XV. TOWN MANAGER'S ITEMS

Town Manager McKannay thanked the School District of lee County Board for voting in favor of the draft ILA for potential transfer of the school property. He also expressed his appreciation to Council for their support. He presented some areas of the ILA that he will be requesting amendments for:

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1) an extension of the initial charter application deadline from 120 days to 12 months; 2) a provision allowing the town immediate access for the property to begin planning, preparation, and potential construction; 3) an expansion of allowable uses; 4) a request for a longer timeframe to restart the school (from 1 to 2 years following closure); 5) a provision giving the town the opportunity to purchase the property within the 3-year term.

This language is based on independent appraisals done on the property.

Mayor Allers confirmed, for the third recommendation, that the intent is that education would still be the primary use. He also verified with the Town Manager that there is an existing provision that gave the town the ability to purchase the property in the case of school closure. Deputy Town Manager Traci Kohler provided that each entity conducted independent appraisals. Town Manager McKannay additionally requested that the town strengthen its force majeure provisions. He reported that he and Deputy Town Manager Traci Kohler have begun preliminary charter application work, with the assistance of an experienced charter school consultant. They met with the Education Freedom Foundation last week. The organization has agreed to provide pro bono services, but the town wishes to first ensure that they are done in compliance with its policies and procedures. They will meet with members of the ad hoc committee and the parents involved in previous ILA discussions to consider next steps. He stressed the intent on making this a community-supported project. Discussions will be done through public meetings. In the future, they plan to hold a community information meeting and consider creating committees in support of the project. Town Attorney Stuparich stated that she and Attorney Vose have not had an opportunity to review, the interlocal agreement, from a strictly legal perspective. They most likely will have their own requested changes. She also pointed out that the draft refers to creating a new charter school, which is significantly different from converting a public school to a charter school. Town Manager McKannay confirmed that he will closely work with the Town Attorney and Attorney Vose. Council Member King inquired about potential safeguards, especially given past actions related to the previous ILA. Town Attorney Stuparich answered that, if the situation resolves between the school board and the town, they will not need to proceed with the process related to that prior agreement. They can look into terminating the prior ILA by writing, though the new ILA would supersede the older version. Town Manager McKannay deferred to the Town Attorney and Attorney Vose on exploring potential safeguards for the town.

The Town Manager announced the launch of Finn, an interactive virtual assistance tool, on the town's website. He invited everyone to test the platform and provide feedback to Town Deputy Manager Traci Kohler or Public Information Officer Abigail Eberhart. He updated the Council on Times Square. He sent a photograph from Lee County webcams. He announced that the streetlights were running and working. He thanked the Public Works team. They will continue additional work in the area. This will include adding safety cones and beautification efforts for Times Square.

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Town Manager McKannay acknowledged the Human Resources team for their work on the recruitment for the Emergency Services Director position. Staff have participated in interviews and have narrowed down the candidates. There will be an in-person interview at the end of this week, and Human Resources Director Talissa Oliveira will set up additional interviews with the top candidates in the following weeks. He thanked the current Emergency Services Director Tom Yozzo for staying on for the duration of the recruitment process. Town Manager McKannay announced that the Town Hall will be closed next Monday for the observance of Memorial Day. He informed the Council that he will be one of the veterans interviewed by Ed Ryan for his Memorial Day show.

Council Member King asked if the Town Manager has had the opportunity to review a resident concern he submitted last week regarding drought and irrigation. He responded that he has met with the Environmental Manager, who will be reviewing the matter and submitting recommendations to the Town Manager and his director. These will include restrictions on irrigation and watering times. He thanked Council Member King for bringing this matter to his attention. He reminded everyone that, even though the rainy season has begun, the drought has not yet ended. Mayor Allers also highlighted the issue of sinks being left running and unoccupied. Town Manager McKannay provided that they will add this to the public information that will be rebroadcasted via radio. Vice Mayor Safford thanked Emergency Services Director Thomas Yozzo and Commander Lalor from LCSO. The Town Manager noted the town's great coordination with the LCSO and Commander Lalor. They are planning for proactive measures due to the anticipated increase in people for the Memorial Day weekend. Council Member Link asked if the charter school matter will impact the budget. Town Manager McKannay responded that the budget and the charter school item will run on parallel paths. Council Member McLean emphasized the importance of addressing the enforcement problem in the back bay. He would like to see some coordination efforts from the Council and encouraged everyone to report any speeding incidents they see. Town Manager McKannay provided that he has spoken with the Emergency Services Director, who will be reaching out to the Commander of the LCSO Marine Unit. Harbormaster Ludwig will also be included in these talks. Council Member McLean thanked the Town Manager for his work.

XVI. TOWN ATTORNEY'S ITEMS

No items.

XVII. COUNCILMEMBERS ITEMS AND REPORTS

Council Member McLean thanked members of Council for attending the school board meeting last week.

Vice Mayor Safford recognized the FMB Garden Club and their work in the butterfly garden at the Mound House.

Council Member King reported that he had conversed with Commissioner Brian Hamman. He shared that the pier item will be considered sooner than expected. He also informed the Council of an e-mail communication from Assistant County Manager Glenn Salyer.

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There was a joint meeting of all reviewing agencies, and the county reiterated the need to have the project approved by June 30, 2026.
Based on those discussions, the United States Army Corps of Engineers issued a revised letter last Monday to extend the NEPA review period until June 30, 2026. While not a guarantee that the permit will be issued by that date, reviewers were optimistic that they could meet this deadline. Commissioner Hamman believed that the new pier may be completed by the fifth anniversary of Hurricane Ian. Mayor Allers asked about the budget impact of the 5% increase for the Town Manager. Finance Director Joe Onzick responded that there were significant savings from the payroll due to vacancies. There is also contingency funding available for any unplanned expenditures. Mayor Allers requested input from Council on addressing repeat offenders of code violations, especially those who are operating under a special use permit or a special temporary accession permit. He noted the pressures on staff. He asked if there was a way to revoke their permits or special exceptions. He also asked Town Attorney Stuparich and Town Manager McKannay to explore additional options for the town to engage in stronger enforcement. The Town Attorney expressed her willingness to meet and address this issue. She reported that there are two cases pending in court. Her office is continuing to monitor these two matters. She also noted the option to seek an injunction. However, she also pointed to the potentially lengthy process. The property owner would need to respond to the court when there is a violation of the injunction. She explained that each situation is unique and that she can review and provide separate recommendations for these incidents. Town Manager McKannay offered a possible solution that is connected with ETPP permitting. He will continue discussions with the Town Attorney to explore alternatives. Council Member McLean expressed his agreement to the Mayor's remarks. Council Member Link believed that if the property owner is not following the guidelines of the special exception, this exception should be revoked. Mayor Allers highlighted the differences between an emergency temporary use permit and a special exception. He requested that the town look into ways that it can revoke special exceptions for repeat violators.

A. Town Manager Annual Performance Evaluation

Annual Performance Evaluation of Town Manager

Human Resources Director Talissa Oliveira provided a background for the Annual Performance Evaluation of the Town Manager. Each member of Council reported their evaluation and rationale. Perceived strengths included leadership, community involvement, and commitment to transparency and fairness. Areas of improvement included better communication and constituent response times, earlier dissemination of agenda packets, and further work in addressing staffing gaps. Human Resources Director Talissa Oliveira provided an overview of raises based on performance and progression. She outlined the increases that the Town Manager would be eligible and not eligible for. She reported that there were two forms containing all fives (the highest score) and that the remaining contained fours. There were no scores below four.
Mayor Allers moved to thank the Town Manager for his and his wife's investment in the community, as well as his continued good work in building a team, and to offer him a 5% increase to his base salary, seconded by Council Member King.

Council Member Link asked if this increase would be in the form of a bonus or a raise to the base pay. Mayor Allers expressed his preference for the latter. Human Resources Director Talissa Oliveira also advised that the increase be reflected in the base pay. The motion carried unanimously by a roll call vote.

XVIII. ADJOURNMENT

Council Member King moved to adjourn.

The meeting was adjourned at 11:59 a.m.

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Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-585**

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Tropical Storm Debby

What the action accomplishes:

Continues the Local State of Emergency issued for Tropical Storm Debby

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
CONSENT AGENDA	Resolution	Lizzette Roman, Town Clerk Administrative Coordinator

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-154.

Attachments:

1. 26-128, Extension of Local Emergency - Debby 07.07.26 - 07.13.26
2. 26-129, Extension of Local Emergency - Debby 07.14.28 - 07.20.26
3. 26-130, Extension of Local Emergency - Debby 07.21.26 - 07.27.26
4. 26-131, Extension of Local Emergency - Debby 07.28.26 - 08.03.26

Financial Impact:

Expenditures related to response and recovery efforts for Tropical Storm Debby have been incurred and are being tracked under applicable emergency and storm-related accounts. The Town anticipates seeking reimbursement through eligible state and federal disaster assistance programs, including FEMA, as applicable.

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Tropical Storm Debby

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator	Created/Initiated - 6/4/2026
Amy Baker, Town Clerk	Approved - 6/4/2026
nancy stuparich, Town Attorney	Approved - 6/5/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-128

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be

limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-129

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be

limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-130

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
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- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

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7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

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8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be

limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-130

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO TROPICAL STORM DEBBY; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Tropical Storm Debby impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on August 5, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order

specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

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5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

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(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

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7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be

limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-586**

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE) PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Helene

What the action accomplishes:

Continues the Local State of Emergency issued for Hurricane Helene

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
CONSENT AGENDA	Resolution	Lizzette Roman, Town Clerk Administrative Coordinator

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-192

Attachments:

1. 26-132, Extension of Local Emergency - Helene 07.07.26 - 07.13.26
2. 26-133, Extension of Local Emergency - Helene 07.14.26 - 07.20.26
3. 26-134, Extension of Local Emergency - Helene 07.21.26 - 07.27.26
4. 26-135, Extension of Local Emergency - Helene 07.28.26 - 08.03.26

Financial Impact:

Expenditures related to response and recovery efforts for Hurricane Helene have been incurred and are being tracked under applicable emergency and storm-related accounts. The Town anticipates seeking reimbursement through eligible state and federal disaster assistance programs, including FEMA, as applicable.

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Hurricane Helene

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator	Created/Initiated - 6/4/2026
Amy Baker, Town Clerk	Approved - 6/4/2026
nancy stuparich, Town Attorney	Approved - 6/7/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-132

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE); PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

    - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
    - Entering into contracts;
    - Incurring obligations;
    - Employment of permanent and temporary workers;
    - Utilization of volunteer workers;
    - Rental of equipment;
    - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
    - Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

    (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

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(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

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8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

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SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-133

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE); PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

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Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-134

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John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-135

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE HELENE (FORMERLY KNOWN AS POTENTIAL TROPICAL CYCLONE NINE); PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Helene impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on September 23, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

    - Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
    - Entering into contracts;
    - Incurring obligations;
    - Employment of permanent and temporary workers;
    - Utilization of volunteer workers;
    - Rental of equipment;
    - Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
    - Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

    (a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-587**

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE MILTON, PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE.

Why the action is necessary:

Keeps the Local State of Emergency in effect for Hurricane Milton

What the action accomplishes:

Continues the Local State of Emengency issued for Hurricane Milton

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
CONSENT AGENDA	Resolution	Lizzette Roman, Town Clerk Administrative Coordinator

5. **Background:**

Approving and ratifying this Resolution will maintain in place the Town Declaration of State of Local Emergency originally adopted via Resolution 24-214

Attachments:

1. 26-136, Extension of Local Emergency - Milton 07.07.26 - 07.13.26
2. 26-137, Extension of Local Emergency - Milton 07.14.26 - 07.20.26
3. 26-138, Extension of Local Emergency - Milton 07.21.26 - 07.27.26
4. 26-139, Extension of Local Emergency - Milton 07.28.26 - 08.03.26

Financial Impact:

Expenditures related to response and recovery efforts for Hurricane Milton have been incurred and are being tracked under applicable emergency and storm-related accounts. The Town anticipates seeking reimbursement through eligible state and federal disaster assistance programs, including FEMA, as applicable.

6. **Alternative Action**

Do not approve and end the Local State of Emergency for Hurricane Milton

7. **Management Recommendations:**

Approve

8. **Recommended Approval:**

Lizzette Roman, Town Clerk Administrative Coordinator	Created/Initiated - 6/4/2026
nancy stuparich, Town Attorney	Approved - 6/5/2026
Amy Baker, Town Clerk	Approved - 6/5/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-136

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WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

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(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

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8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

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The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-137

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Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-138

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE MILTON; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

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THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

RESOLUTION NUMBER 26-139

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, EXTENDING THE DECLARATION OF STATE OF LOCAL EMERGENCY DUE TO HURRICANE MILTON; PROVIDING THE TOWN WITH POWERS, INCLUDING, BUT NOT LIMITED TO THOSE PURSUANT TO FLORIDA STATUTES, CHAPTER 252, AND TOWN CODE CHAPTER 2, ARTICLE VI; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND FOR AN EFFECTIVE DATE AND A TERMINATION DATE

WHEREAS, Section 252.38(3), Florida Statutes, authorizes the Town of Fort Myers Beach to declare a state of local emergency and to waive the procedures and formalities otherwise required of political subdivisions by law; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, a state of local emergency proclamation is allowed for seven (7) days with appropriate extensions pursuant to law; and

WHEREAS, the effects of Hurricane Milton impacted Fort Myers Beach and the current declaration of emergency that was adopted relating to that storm on October 6, 2024, must be extended.

THEREFORE, under the powers vested in it pursuant to Chapter 252, Florida Statutes, and under Chapter 12 of the Town Code of the Town of Fort Myers Beach, the **Town Council does hereby extend the proclamation of a state of local emergency in the Town of Fort Myers Beach, Florida, as identified above beginning at the end of the previously adopted state of local emergency to 7 days thereafter.**

SECTION 1. State of Local Emergency. The following emergency powers and other provisions shall be in force during this state of local emergency:

1. The Town Manager, or designee, is authorized to take all actions necessary and appropriate to protect human life and property, including the promulgation of rules and orders as may be necessary subject to the limitations of Section 252.33, Florida Statutes. This resolution further authorizes the Town Manager, or designee, to utilize all lawful authority granted to the Town of Fort Myers Beach by Federal, State, County, or Town Emergency Management Laws, Rules, Regulations, Orders and, including, but not limited to, Section 252.46 and Section 252.38(3)(a)(1) through Section 252.38(3)(a)(5), Florida Statutes, inclusive.

2. All existing laws, ordinances, and rules inconsistent with the provisions of Sections 252.31 to Section 252.905, Florida Statutes, inclusive, or inconsistent with any rule or order specifically promulgated under this resolution shall be suspended during this period of time and to the extent that such conflict exists.

3. The Town Manager may suspend, toll or extend the time requirements, notice requirements and deadlines for final action on applications for permits, licenses, rates and other approvals under the Town of Fort Myers Beach Code of Ordinances, to the extent necessary to accommodate the emergency.

4. Pursuant to Section 252.38(3)(a)(5), Florida Statutes, the Town hereby exercises its authority and waives the procedures and formalities otherwise required of a political subdivision by law, pertaining to:

- Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- Entering into contracts;
- Incurring obligations;
- Employment of permanent and temporary workers;
- Utilization of volunteer workers;
- Rental of equipment;
- Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- Appropriation and expenditure of public funds

5. The Town Manager shall follow FEMA guidelines in procuring services, materials, labor and equipment necessary to respond to the emergency, including recovery efforts. The Town Manager shall abide by the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements" for federal awards, codified at 2 C.F.R. §§200.317 through 200.326.

6. Pursuant to Section 12-23, of the Code of the Town of Fort Myers Beach, in addition to any other powers conferred by law, the town manager or designees shall have the power and authority to order and promulgate all or any of the following emergency measures to be effective during the period of such emergency in whole or in part, with such limitation and conditions as the town manager or designees may deem appropriate to protect the town's health, safety and welfare, and/or waive the procedures and formalities otherwise required of the town by law pertaining to these measures:

(a) To appropriate and expend funds; make contracts; incur obligations; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to victims of any emergency; and direct and coordinate the implementation of emergency management plans and programs in accordance with the requirements of state and federal law.

(b) To appoint, employ, remove, or provide (with or without compensation) rescue teams, coordinators, other emergency management workers and other permanent or temporary workers.

(c) To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

(d) To assign and make available for duty the offices and agencies of the town, including the employees, property, or equipment thereof relating to health, medical and related services, transportation, construction, and similar items or services for emergency operation purposes, for deployment within or outside the limits of the town.

(e) To request state assistance or invoke emergency-related mutual-aid assistance pursuant to existing contracts and/or state or local law.

(f) To waive any procedures and formalities otherwise required of the town by law pertaining to performance of public work and/or the taking of whatever prudent action is necessary to ensure the health, safety, and welfare of the people of the town.

(g) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives and/or combustibles.

(h) To utilize all available resources of the town government as reasonably necessary to cope with the emergency occasioned by the disaster.

(i) To make provisions for availability and use of temporary emergency housing and emergency warehousing of materials.

(j) Preceding or during the emergency, to call on the National Guard or the Army, Coast Guard or other law enforcement division or other agency as necessary to assist in the mitigation of the emergency or to help maintain law and order, rescue and traffic control.

7. Pursuant to Sec. 12-24, "Prohibitions during state of emergency", of the Code of the Town of Fort Myers Beach, whenever a state of local emergency has been declared, and until such state of local emergency is terminated, the following prohibitions shall apply throughout the town, unless and until the same shall be waived or modified by a quorum of the town council at a general, special or emergency meeting:

(a) It shall be unlawful and an offense against the town for any person to use the fresh water supplied by the county or local water company for any purpose other than cooking, drinking or bathing.

(b) It shall be unlawful for any person to be out and about on the public rights-of-way or other public areas of the town between the dusk and dawn, except for law enforcement officers, members of the town fire control district, emergency medical personnel, town councilmembers, other persons authorized by the town manager, and regular employees of local businesses while traveling to and from their jobs for their regular hours, providing such employees have in their possession personal identification and identification of the business by which they are employed.

8. Any person who refuses to comply with or violates any provision of this declaration of local emergency shall be guilty of a municipal violation. Each day of such violation shall constitute a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this article or the emergency measures which may be made effective pursuant to this article. Such other lawful action shall include but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. In addition, any person violating any rule or order issued pursuant to this Resolution or any person who willfully fails or refuses to comply with the order or orders of any duly authorized law enforcement officer or personnel charged with the responsibility for the enforcement of such orders shall, upon conviction therefore, be punished as provided by Section 252.50, Florida Statutes, and by such other laws as may be applicable to the offense.

SECTION 2. Conflicts. Any and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

SECTION 3. Severability. If any provision or portion of this Resolution or the application is held invalid, the invalidity shall not affect other provisions, portions or applications of the Resolution, which can be given effect without the invalid provision, portion or application, and to this end the provisions, portions, or applications of this Resolution are declared severable.

SECTION 4. Effective Date and Termination Date. This Resolution shall take effect immediately upon the termination of the previously adopted state of local emergency and shall terminate automatically seven (7) days from that date unless terminated earlier or extended by a document of equal dignity herewith.

SECTION 5. Direction to Implement. The Town Manager is directed to implement this Resolution.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this ___ day of June 2026, by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

1. **Request:**

Meeting Date: June 15, 2026

This legislative agenda item is a Second Reading and Final Public Hearing on proposed Ordinance 26-09.

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE III DIVISION 3 SECTION 34-638 OF THE LAND DEVELOPMENT CODE CREATING A NEW EXCEPTION TO MINIMUM SETBACK REQUIREMENTS REDUCING MINIMUM SETBACKS TO ACCOMMODATE NEW FLORIDA POWER AND LIGHT REQUIREMENTS FOR PLATFORMS TO LOCATE AND PROVIDE SERVICE TO ELEVATED ELECTRIC METERS; PROVIDING CRITERIA AND CONDITIONS FOR THE PERMITTED ELECTRIC METER EQUIPMENT AND ASSOCIATED PLATFORM, ACCESS STAIRWAYS AND RELATED STRUCTURES; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

This text amendment will provide an alternative and quicker solution to the full variance process for these resiliency-related efforts.

What the action accomplishes:

This text amendment will provide an alternative and quicker solution to the full variance process for these resiliency-related efforts.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
PUBLIC HEARINGS	Ordinance	Jason Green, Community Development Services

5. **Background:**

Over the past year, staff have received several inquiries from local contractors and builders regarding Florida Power & Light (FP&L) requirements for installing electric meters above FEMA-required flood elevations and providing access to these elevated meters. These updated FP&L requirements have resulted in encroachments into required setbacks on residential lots.

Based on these concerns, staff initiated drafting of an ordinance to amend the Land Development Code (LDC). The proposed amendment incorporates electric meter equipment and associated access structures into Article III, Division 3, Section 34-638(d)(1)(g), which addresses exceptions to setback and dimensional standards for mechanical equipment. Additionally, the amendment establishes five criteria to govern situations where meter installations, including associated platforms and access stairways, encroach on required side and rear setbacks.

This text amendment will provide an alternative and quicker solution to the full variance process for these resiliency-related efforts.

At May 12, 2026, LPA meeting, the ordinance 26-09 with proposed changes was unanimously approved.

At the June 1st, 2026, Town Council meeting the ordinance 26-09 was heard and requests from councilors to correct scrivener's errors and provide additional language to disallow any entrance

into the home from the FP&L access stairs and landing. The vote was 5-0 to move the ordinance to the next Council meeting.

Attachments:

1. NS TC- Ordinance 26-09 Text Amendment-06.3.26 (1)
2. 26-09, Business-Impact-Estimate FPNL
3. Exhibit A- Sec._34_638.___Minimum_setbacks_US_jas edit 06.03.26
4. Staff Report for TC

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Kendra Rosa, Zoning Coordinator	Created/Initiated - 5/29/2026
Frankie Kropacek, Community Development Director	Approved - 6/5/2026
nancy stuparich, Town Attorney	Approved - 6/7/2026
Amy Baker, Town Clerk	Approved - 6/8/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

ORDINANCE 26-09

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE III DIVISION 3 SECTION 34-638 OF THE LAND DEVELOPMENT CODE REGARDING MINIMUM SETBACKS TO ACCOMMODATE NEW FP&L REGULATIONS FOR ELEVATED ELECTRIC METERS AND ACCESS STRUCTURES; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town recognizes that FP&L has implemented new requirements for the installation of electric meters and associated platforms above the required flood elevation, necessitating updates to the Land Development Code; and

WHEREAS, the proposed changes to the Land Development Code are not more restrictive or burdensome to development; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) on the 12th day of May, 2026, at time which the LPA gave full and complete consideration of the request, recommendations by staff, the documents in the record, and the testimony of all interested persons, and the LPA voted 7 to 0, to recommend approval of this Ordinance; and

WHEREAS, on the 1st day of June, 2026, the Town Council held a first reading of the proposed Ordinance and gave full and complete consideration to the recommendation of the LPA, the recommendation of staff, the documents in the record, and the testimony of all interested persons to adopt Ordinance 26-09 as provided herein and approved scheduling an adoption public hearing with a change to not allow access to the dwelling from any access point; and

WHEREAS, a Business Impact Estimate was prepared and posted on the Town's website on the 2nd day of June 2026, as required by Section 166.041(4), Florida Statutes; and

WHEREAS, an advertisement of the public hearing for adoption of the Ordinance was published in the News-Press on the 21st day of May 2026, which is no less than 10 days prior to the second reading of the proposed Ordinance as required by Section 166.041; and

WHEREAS, on the 15th day of June, 2026, the Town Council held a second reading of the Ordinance; at which time the Town Council gave full and complete consideration to the recommendations of staff and the LPA, and the testimony of all interested persons; and

WHEREAS, the Town finds that it is in the best interests of the health, safety, and welfare of the Town's business owners, residents, and visitors to adopt the proposed change.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. Ratification of Recitals. The Town Council of the Town of Fort Myers Beach, Florida, hereby adopts and ratifies those matters as set forth in the foregoing "WHEREAS" recitals.

Section 2. LDC Sec. 34-638 is hereby amended to read as provided in Exhibit A.

Section 3. Severability. The provisions of this Ordinance are intended to be severable. If any provision of this Ordinance is determined to be void or declared illegal, invalid, or unconstitutional by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 4. Repeal of Laws in Conflict. If any ordinances, or parts of ordinances, or if any sections, or parts of sections, of the Ordinances of the Town of Fort Myers Beach, Florida, are in conflict herewith, this Ordinance shall control to the extent of the conflicting provisions.

Section 5. Scrivener's Errors. Sections of this Ordinance may be renumbered or re-lettered and corrections of typographical errors, which do not affect the intent, may be authorized by the Town Manager, or the Town Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 6. **Effective Date.** This Ordinance shall become effective upon adoption.

THE FOREGOING ORDINANCE was adopted by the Town Council upon a motion by Council Member ____ and seconded by Council Member _____, and upon being put to a roll vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this __ day of _____, 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Ordinance was filed in the Office of the Town Clerk on _____.

Exhibits
Exhibit A: Land Development Code (LDC) Article III; Division 3 Section 34-638.

Business Impact Estimate

This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the Town's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: (26-09)

AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE III DIVISION 3 SECTION 34-638 OF THE LAND DEVELOPMENT CODE REGARDING MINIMUM SETBACKS TO ACCOMMODATE NEW FP&L REGULATIONS FOR ELEVATED ELECTRIC METERS AND ACCESS STRUCTURES; PROVIDING FOR CLARIFICATIONS AS NECESSARY; PROVIDING FOR CONFLICTS OF LAW, SCRIVENER'S ERRORS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the Town is of the view that a business impact estimate is not required by state law[1] for the proposed ordinance, but the Town is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or

[1] See Section 166.041(4)(c), Florida Statutes.

d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

In accordance with the provisions of controlling law, even notwithstanding the fact that an exemption noted above may apply, the Town hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance is to amend the Land Development Code to incorporates electric meter equipment and associated access structures into Article III, Division 3, Section 34-638(d)(1)(g), which addresses exceptions to setback and dimensional standards for mechanical equipment.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town, including the following, if any:
(a) An estimate of direct compliance costs that businesses may reasonably incur;
(b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
(c) An estimate of the Town's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

There are unlikely to be direct compliance costs associated with the ordinance.
The ordinance does not impose any new charge or fee on businesses.
There are no new charges or fees that will be imposed on businesses by the ordinance.
The Town will not likely incur additional costs.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:
All new construction will benefit from this Text amendment.

4. Additional information the governing body deems useful (if any)
The proposed language allows electric meter equipment, associated platforms, and access stairways for new and existing homes to encroach into required side and rear setbacks subject to specific criteria.

EXHIBIT A: Text Amendment – Sec 34-268 (adding FP& L meters)

Sec. 34-638. Minimum setbacks.

(a) *Generally.* Most zoning districts require minimum setbacks between all buildings and structures and the street, the side lot line, the rear lot line, and any waterbody.

(1) Setbacks are minimum horizontal distances between a property line and the nearest point of all structures that ensure a minimum area without buildings. Detailed definitions are provided under "setback" in § 34-2 of this LDC.

a. Where an unusual lot configuration or orientation makes it unclear which property lines are street, side, or rear lot lines, the director will establish street, side, and rear lot lines for setback purposes after taking into account existing buildings on the same block as well as the intent of this code. Where access is provided by a shared driveway rather than a street, the director may determine that no street setback applies to that lot.

b. Once established through this process, the same setbacks will be applied by the director to other lots on that block.

(2) There are two types of side setbacks:

a. *Side setbacks - waterfront lots.* Larger side setbacks are required for waterfront lots, defined as lots that immediately adjoin a tidally influenced body of water, whether artificial or natural (see definitions in § 34-2 of this LDC).

b. *Side setbacks - non-waterfront lots.* Smaller side setbacks are required for all other lots.

(3) The distinction between street setback lines and build-to lines is explained in § 34-662 of this chapter.

(4) *Corner lot street setbacks.* Corner lots, as defined in section 34-2, shall have a front street setback, a side street setback, a standard side setback and a standard rear setback, as defined in Table 34-3, Dimensional Regulations in Conventional Zoning Districts.

a. *Front street setback.* The front street setback will be the typical required street setback as defined in Table 34-3. Any corner lot on Estero Boulevard, must treat the Estero Boulevard frontage as the front street setback. Any corner lot not on Estero Boulevard may choose the front street which best allows development of the property and meets all other Code requirements. The rear setback shall be opposite of the front street setback.

b. *Side street setback.* The side street setback width will vary depending on the width of the lot. Lot width is measured from the side street property line to the side property line (opposite from the side street property line). See subsection 34-638(d)(6).

(5) Certain exceptions to minimum setbacks are provided in subsection (d) below.

(b) *Where to find minimum setback dimensions.* Minimum setback dimensions are specified as follows:

(1) *For principal buildings:*

a. For all conventional zoning districts, see Table 34-3.

b. For redevelopment zoning districts, as described for the individual districts in division 5 of this article.

c. For RPD districts, see § 34-943 of this chapter.

d. For CPD districts, see § 34-953 of this chapter.

(2) *For accessory buildings,* see §§ 34-1174—34-1176 of this chapter.

(c) *Additional wetlands buffers.* New development must maintain a 75-foot separation between wetlands and buildings or other impervious surfaces, in accordance with Policy 4-C-12 of the Fort Myers Beach Comprehensive Plan.

(1) This requirement does not apply to lawfully existing subdivided lots.

(2) This requirement also does not apply to a previously approved development order to the extent it cannot reasonably be modified to comply with this requirement (see ch. 15 of the Fort Myers Beach Comprehensive Plan for details).

(d) *Exceptions to setbacks and dimensions.* In addition to the following general exceptions to minimum setbacks, commercial buildings that are subject to the commercial design standards may encroach into certain setbacks as provided in §§ 34-991—34-1010 of this chapter.

(1) *Exceptions to all setbacks.*

a. *Administrative setback variances.* Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268 of this chapter.

b. *Overhangs.* An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch, or living space located above the overhang to extend into the setback.

c. *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.

d. *Awnings and canopies.*

1. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not interfere with traffic, ingress and egress, or life safety equipment.

2. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.

e. *Essential services.* Essential services and essential service equipment shall not be required to meet the minimum setbacks for the district wherein located (see § 34-1617 of this chapter).

f. *Two-family dwelling units.* If a two-family dwelling unit is on a lot of sufficient size to allow it to be subdivided into a separate lot under each dwelling unit (see Table 34-3), the side setback regulations in this section shall not be interpreted to forbid such subdivision. Existing two-family buildings that are being subdivided must be separated by not less than one-hour fire resistance.

g. *Mechanical equipment.* Mechanical equipment such as air conditioners, generators, service panels, meters, electric meter equipment (FP&L) and access to elevated structure and pool equipment, associated with new homes, may encroach up to three feet into rear and waterbody primary structure setbacks but must meet the same street and side setbacks as the building it serves.

1. On lots where the side setbacks are not equal on both sides, mechanical equipment may not be placed on the side of the house with the smaller setback unless the smaller setback is 20 feet wide or more.

2. For existing homes, mechanical equipment may be replaced or elevated in the original location it was installed, in conformance with prior regulations.

3. New, elevated, mechanical equipment, for existing homes, may be located or relocated into the rear, side or side street setback. The equipment may encroach no more than three feet or the same encroachment of the existing equipment, whichever is greater. An access ladder may be installed which encroaches no more than three feet into the side yard or side street setback and is removable or movable.

4. The electric meter equipment and associated platforms with access stairways for new and existing homes, required by Florida Power & Light (FP&L) may encroach into the required side and rear setbacks, provided that

a. Such encroachment is limited to the minimum area necessary to meet utility requirements. The platform must provide 5' of clearance in front of the meter which would typically be towards the side setback.

b. All access platforms, stairways, and related structures shall comply with the Florida Building Code, including minimum safety and access standards, and shall not exceed the minimum dimensions required for compliance.

c. Such encroachments shall be limited to non-habitable structures, including meter platforms and access stairways. Such structures shall not be enclosed except as necessary for protection of utility equipment, shall not be developed to provide access to the home and shall not be used for storage, occupancy, or any accessory use.

d. Encroachments into required side and rear setbacks shall not exceed 3.5 feet of the given setback.

e. If the access stairways and associated platforms encroach into the stormwater area, the applicant must redesign the stormwater system to meet minimum stormwater requirements. No part of this platform or stairs could be built in or above the easement.

(2) *Exceptions to street setbacks.* Certain structures are exempt from the street setback requirements as follows. See also § 34-1174 of this chapter.

a. *Build-to lines.* Some zoning districts do not have any street setback requirements but instead have build-to lines, as described in § 34-662 of this chapter. Awnings, canopies, balconies, bay windows, porches, stoops, arcades, and colonnades may extend forward of the build-to line provided that they comply with the commercial design standards (see § 34-995(e) of this chapter).

b. *Porches, balconies and stoops.* Porches, balconies and stoops may encroach into the street setback ten feet or half the width of the street setback, whichever is less, on the first living level of residential buildings, provided that:

1. Any walls, screened areas, or railings in the setback zone extend no higher than 42 inches above the floor of the porch, balcony or stoop.

2. Reserved.

3. Porches, balconies and stoops, which extend into the street setback, may not exceed 35 feet in width.

c. *Mail and newspaper delivery boxes.* Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations; however, the support for a mail or newspaper delivery box must be of a suitable breakaway or yielding design, and any mail or newspaper delivery box placed in an unsafe or hazardous location can be removed by the government agency with jurisdiction over the right-of-way at the property owner's expense.

d. *Bus shelters, bus stop benches and bicycle racks.* Bus shelters, bus stop benches, and bicycle racks may be located in any district without regard for minimum setbacks, provided the location of the structure is approved by the town manager. No advertising is permitted on bus stop benches.

e. *Telephone booths.* Telephone booths and pay telephone stations may be located in any zoning district that permits multifamily or commercial uses without regard for minimum setbacks; provided that the location shall be approved by the director.

(3) *Waterbody setbacks.*

a. *Gulf of Mexico.* Except as provided in this section or elsewhere in this code, no building or structure shall be placed closer to the Gulf of Mexico than set forth in ch. 6, articles III and IV of this LDC, or 50 feet from mean high-water, whichever is the most restrictive. See also special regulations for the EC zoning district in § 34-652 of this chapter and the coastal zone restrictions in § 34-1575 of this chapter.

b. *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, no building or structure shall be placed closer than 25 feet to a property line adjacent to a canal, bay, or other waterbody. For purposes of measuring setbacks from a canal, bay, or other body of water, the following will also be used:

1. If the body of water is subject to tidal changes, the setback will be measured from the mean high-water line.

2. If the body of water is not subject to tidal changes, the setback will be measured from the control elevation of the body of water if known, or from the ordinary high-water line if unknown.

3. In addition to the property line setback, if the property has a seawall, a minimum setback of five feet will be measured from the seaward side of the seawall, not including the seawall cap.

4. If property lines encroach into the waterbody, then no more than five feet shall be applied to the setback measurement.

5. If plats or legal descriptions of property reference water bodies as boundaries, the mean high-water line shall be utilized, unless otherwise stated in those legal descriptions or survey.

c. *Exceptions for certain accessory structures.* Certain accessory buildings and structures may be permitted closer to a body of water as follows:

1. *Fences and walls.* See division 17 of this article.

2. *Shoreline structures.* See § 34-1863 and ch. 26 of this LDC.

3. *Nonroofed structures.* Swimming pools, tennis courts, patios, decks, and other nonroofed accessory structures or facilities which are not enclosed, except by fence, or which are enclosed on at least three sides with open-mesh screening from a height of 3½ feet above grade to the top of the enclosure, shall be permitted up to but not closer than:

(i) Five feet from a seawalled canal or seawalled natural body of water;

(ii) Ten feet from a nonseawalled artificial body of water; or

(iii) Twenty-five feet from a nonseawalled natural body of water;

whichever is greater. Enclosures with any two or more sides enclosed by opaque material shall be required to comply with the setbacks set forth in subsections (d)(3)a. and (d)(3)b. of this section.

4. *Roofed structures.*

(i) Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.

(ii) Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.

(4) *Exceptions for certain nonconforming lots.*

a. Certain nonconforming mobile home lots in the village zoning district are subject to the modified side and rear setback requirements that are found in § 34-694 of this chapter.

b. Certain nonconforming commercial lots are subject to the modified side and rear setback requirements that are found in § 34-3277 of this chapter.

(5) *Additional street setbacks for single-family and two-family homes exceeding 65 feet in width in the RS, RC and RM zoning district.*

a. Single-family and two-family homes exceeding 65 feet in width, shall have additional street setback requirements.

1. No more than 65 feet of the structure may be constructed between the street setback line (25 feet from right-of-way property line) and 37 feet from the street property line. Any portion of the structure exceeding 65 feet in width shall be set back an additional 12 feet (37 feet from the right-of-way property line).

(i) For corner lots, the additional 12-foot setback requirement applies to the front street setback.

(ii) For corner lots, the additional setback may be reduced for the side street setback. The side street additional setback shall apply to the length of the home, exceeding 65 feet, that fronts on the side street. The additional setback from the side street shall be based on the width of the lot from the side street property line to the opposite side property line.

Properties 50 feet or less in width shall have an additional setback of three feet.

Properties greater than 50 feet in width to 85 feet in width shall have an additional setback of six feet.

Properties greater than 85 feet in width shall have an additional setback of 12 feet.

2. No more than 80 percent of the portion of the structure between the street setback line (25 feet from right-of-way property line) and 37 feet from the street property line may be taller than one story above flood elevation. Any portion of the building behind the 37-foot front setback may be built to the maximum buildable height for that zoning district.

3. The 65 feet of building between the 25-foot street setback and 37 feet from the street property line, must be constructed as at least two separate projections. The front façade may not be a continuous wall without setback changes. See Figure 34-2.

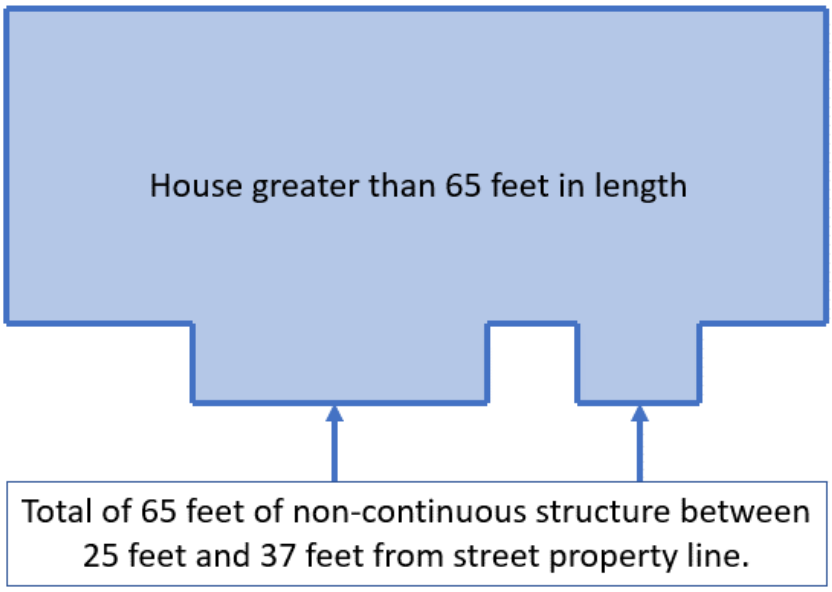


Figure 34-2

b. *Exemption from additional setbacks for open ground level.* A residential structure greater than 65 feet in width will be exempt from the additional front and side setback requirements found in § 34-638(d)(5), if the ground-level enclosed or screened area is limited to no more than 30 feet in width, as viewed from the ROW. The enclosed area may extend the full depth of the house but limited in width to 30 feet.

(6) *Corner lot street setbacks.* Corner lots, as defined in section 34-2, shall have two street setbacks which may vary depending on lot width, a standard side setback and a standard rear setback shall apply, as defined in Table 34-3, Dimensional Regulations in Conventional Zoning Districts.

a. *Front street setback:* For single-family and two-family homes in the RS, RC and RM zoning districts will be 25 feet. Any corner lot on Estero Boulevard, must treat the Estero Boulevard frontage as the front street setback. Any corner lot not on Estero Boulevard may choose the front and side street which best allows development of the property and meets all other Code requirements. The rear setback shall be opposite of the front street setback.

b. *Side street setback:* For single-family and two-family homes in the RS, RC and RM zoning districts. The side street setback will vary between ten feet and 20 feet depending on the width of the lot, measured from the side street property line and the side property line (opposite from the side street property line).

1. Properties that measure 50 feet or less shall have a ten-foot side street setback.

(i) Proposed layout must indicate how parked cars will be maintained out of the right-of-way, if the property will be accessed from this side.

2. Properties that measure greater than 50 feet up to 75 feet shall have a 15-foot side street setback.

(i) Proposed layout must indicate how parked cars will be maintained out of the right-of-way, if the property will be accessed from this side.

3. Properties that are greater than 75 feet shall have a 20-foot side street setback.

(Ord. No. 20-08, § 2, 4-6-2020; Ord. No. 20-19, § 4, 1-19-2021; Ord. No. 22-01, § 2, 2-7-2022; Ord. No. 23-02, § 2(Exh. A), 2-21-2023)

COMMUNITY DEVELOPMENT DEPARTMENT

To: **Town Council**

From: **Jason Green, Community Development**

Date: **June 15, 2026**

Re: **FP&L meter installation above the FEMA required flood elevation**

BACKGROUND

Over the past year, staff have received several inquiries from local contractors and builders regarding Florida Power & Light (FP&L) requirements for installing electric meters above FEMA-required flood elevations and providing access to these elevated meters. These updated FP&L requirements have resulted in encroachments into required setbacks on residential lots.

Based on these concerns, staff-initiated drafting of an ordinance to amend the Land Development Code (LDC). The proposed amendment incorporates electric meter equipment and associated access structures into Article III, Division 3, Section 34-638(d)(1)(g), which addresses exceptions to setback and dimensional standards for mechanical equipment. Additionally, the amendment establishes five criteria to govern situations where meter installations, including associated platforms and access stairways, encroach into required side and rear setbacks.

This text amendment will provide an alternative and quicker solution to the full variance process for these resiliency related efforts.

At the May 12, 2026, LPA meeting, the ordinance 26-09 with proposed changes was unanimously approved.

At the June 1st, 2026, Town Council meeting the ordinance 26-09 was heard and requests from councilors to correct scrivener's errors and provide additional language to disallow any entrance into the home from the FP&L access stairs and landing. The vote was 5-0 to move the ordinance to the next Council meeting.

Proposed Solution

Staff propose the attached strike-through and underline language to amend the Land Development Code (LDC) to address the placement of electric meter equipment and associated access structures required by Florida Power & Light (FP&L). Recent FP&L requirements to elevate meters with associated

access structures have resulted in encroachments into required side and rear setbacks, particularly on residential lots.

The proposed language allows electric meter equipment, associated platforms, and access stairways for new and existing homes to encroach into required side and rear setbacks, subject to specific criteria. These criteria limit encroachments to the minimum area necessary to meet utility requirements, including required clearance in front of the meter. The structures must comply with the Florida Building Code and are limited to non-habitable uses, such as platforms and stairways, which may not be enclosed or used for storage or occupancy.

Additional standards are included to limit the extent of encroachments, prohibit impacts to easements, require that any encroachment into stormwater areas be redesigned to comply with applicable Town stormwater regulations. These provisions are intended to accommodate updated utility requirements while maintaining the intent of setback regulations and ensuring site functionality and safety.

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-506**

1. **Request:**

Meeting Date: June 15, 2026

Approval of a Special Event for the Santini Farmers Market to be held every Sunday, Tuesday, and Thursday from October 2026 through May 2027 at Santini Marina Plaza, located at 7205 Estero Boulevard, from 9:00 AM to 1:00 PM, as requested by Linda Miller of Shop Local Productions, including approximately 42 vendor spaces featuring produce, baked goods, food trucks, arts, crafts, boutique goods, and other local retail vendors, subject to further approval by the Fort Myers Beach Fire Control District and the Lee County Sheriff's Office.

Why the action is necessary:

This action is necessary pursuant to Section 22-7(5)(c) and Section 22-8 of the Town of Fort Myers Beach Code of Ordinances, as the Santini Farmers Market is a recurring special event consisting of multiple event dates held at the same location over an extended seasonal period from October 2026 through May 2027. Because the event is proposed as a recurring market operating multiple days per week with a consistent format, location, and anticipated attendance, Town Council approval is required prior to permit issuance.

What the action accomplishes:

Approve the Special Event and its applicable waivers.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Other	Nora Skipper

5. **Background:**

Shop Local Productions is requesting approval for the recurring Santini Farmers Market to be held at Santini Marina Plaza, located at 7205 Estero Boulevard, every Sunday, Tuesday, and Thursday from October 2026 through May 2027, from 9:00 AM to 1:00 PM, except Holidays. The market is designed as a seasonal community shopping destination featuring approximately 42 vendors offering fresh produce, baked goods, food trucks, arts and crafts, boutique clothing, jewelry, home goods, snacks, and beach gear, with an estimated attendance of approximately 300 participants per event.

The purpose of the market is to support local businesses, increase foot traffic for nearby retailers and restaurants, and provide residents and visitors with a consistent weekly destination for shopping and community engagement. The event will be held entirely on private property with written permission from Shaked Properties LLC, with vendors parking behind their booths to preserve customer parking availability. Vendors are responsible for trash removal and cleanup, and no Town property rental, public right-of-way use, or waiver requests are included in the application. Due to the recurring nature of the event, Town Council approval is required pursuant to Chapter 22 of the Town of Fort Myers Beach Code of Ordinances.

Attachments:

1. Special Event Permit Application Santini Market Shop Local Productions 2026 2027

Financial Impact:

6. **Alternative Action**

Deny the special event application and its waivers.

7. **Management Recommendations:**
Approve the Special Event and its applicable waivers.

8. **Recommended Approval:**

Nora Skipper,	Created/Initiated - 6/3/2026
nancy stuparich, Town Attorney	Approved - 6/5/2026
Amy Baker, Town Clerk	Approved - 6/5/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

Town of Fort Myers Beach
Special Event Application Checklist

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Email: Specialevents@fmbgov.com

- [x] A **completed** application is to be turned in 45 days **prior** to the event or a $5.00 per day cost will be added to the permit cost. You need to submit application to FMB Fire and LSCO.

- [x] All necessary department approvals – an application is not considered completed until all approvals have been turned in to Town Hall.

- [x] If Town Council action is required the **completed** application must be turned in 60 days prior to the event in order to get put on the Council agenda to be brought forth to Council, also any application turned in after the 60 days a 10% additional charge to the permit will be added.

- [x] Detailed description of entire event including set up and breakdown

- [x] Letters of permission if using someone else's property for event.

- [x] Site plan – marked off with placement of objects (chairs, tables, tents, etc.)

- [x] Parking Plan – if applicable

- [x] Liability Insurance ($1 million each occurrence and $2 million general aggregate) naming the Town of Fort Myers Beach as certificate holder

- [x] A copy of the 500 foot notification letter for any amplification along with the mailing list

You must initial & sign you have read and understand all requirements above.

Linda Miller 4/4/2026

Town of Fort Myers Beach

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Email: Specialevents@fmbgov.com

Name of event Santini Farmers Market
Attach separate sheet of paper with detailed description of event

Date(s) and times of event See attached. OCT. 2026 - MAY 2027 SUN. TUES. THURS.

Address of event Santini Marina Plaza 7205 ESTERO BLVD. FMB

Expected # of participants/attendees 300

Sponsoring Organization SHOP LOCAL PRODUCTIONS

Organization address 7205 ESTERO BLVD. FMB

Contact Person/Phone# LINDA MILLER 239.289.3786

E-mail SHOPLOCALPRO@GMAIL.COM

Amplified Music Y[ ] N[X] 500 Ft Notifications _____ Copy of Letter _____

Renting Town Property Y[ ] N[X] Renting Parking Spaces Y[ ] N[ ]

How many Spaces? 42 How many hours _____

Extension of Premises? Y[ ] N[ ] ABT Form _____ How many days? 102 (Over 3 days needs to go to Council)

Letters of Permission to use Property ✓

Letters of Permission to use Parking ✓ Parking Plan _____

Site Plan _____ Insurance _____ (Naming Town of FMB as Certificate Holder)

Requesting Water Y[ ] N[X] Electric Y[ ] N[X]

Requires Council Approval:
Waiver of open container Y[ ] N[X] Waiver of Town parking fees Y[ ] N[X] NA

Waiver of Noise Ordinance Y[ ] N[X] Recurring Event Y[X] N[ ]

Applicant Signature Linda Miller

Printed Name LINDA MILLER

This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.

Santini Farmers Market Dates

October 2026 through May 2027, 9 am -1pm

October 1,4,6,8,11,13,15,18,20,22,25,27,29

November 1,3,5,8,10,12,15,17,17,22,24,29 Closed Thanksgiving

December 1,3,6,8,10,13,15,17,20,22,24,27,29,31 Closed Christmas

January 3,5,7,10,12,14,17,19,21,24,26,28,31

February 2,4,7,9,11,14,16,18,21,23,25,28

March 2,4,7,9,11,14,16,18,21,23,25,30,31 Closed Easter

April 1,4,6,8,11,13,15,18,20,22,25,27,29

May 4,6,9,11,13,16,18,20,23,25,27,30 Closed Mother's Day

Applicant to Complete:

Company managing trash removal: (NA) Vendors Remove trash

No. of dumpsters: 0 **Type of dumpsters:** NA

Who is responsible for clean-up and payment: Vendors

City right-of-way Parking Use: NA **Number of spaces:** NA

To be completed by Town Hall employees:

FMB Public Works:

Public Works remarks: _____

Approval: _____ **Date:** _____

FMB Environment Science: Tel (239)765-0202

FMB Environmental Sciences remarks: _____

Approval: _____ **Date:** _____

Please forward the completed application and site plan along with the individual approval request to each identified agency below. Once complete return all to our office.

Florida DEP: DEP now provides an online application process for minor event approval

Self Certification for CCCL Permit Guidance Document: http://www.dep.state.fl.us/beaches/

FOR MAJOR EVENTS ONLY CONTACT

Kelly Cramer **Tel (239)770-7502 Fax(850)412-0590**
Email: kelly.cramer@floridadep.gov

Florida DEP remarks: _____

_____

_____

Check list: Application _____ **Site Plan** _____ **Description** _____

Florida DEP approval: _____ **Date:** _____

Turtle Time Inc.: Eve Haverfield **Tel (239)481-5566 eve@turtletime.org**

Turtle Season is May 1 through October 31

Turtle Time remarks: NA

_____

Turtle Time approval: _____ **Date:** _____

FORT MYERS BEACH FIRE DEPT
100 Voorhis Street · Fort Myers Beach, Florida 33931 **Tel (239) 590-4210**

Fire Guards: (how many?) _____

Fee: _____

Flammable Vegetation: _____

First Aid Equipment: _____

Fire Extinguishing Equipment: _____

Special Arrangements: _____

_____

_____ _____ _____
Print Name **Approval Signature** **Date**

prevention@fmbfire.org – **For Fire Department Handbook and additional application.**

LEE COUNTY SHERIFF'S DEPT **Tel (239)477-1830 Fax (239)432-0268**
15650 Pine Ridge Road, Fort Myers, FL 33908

Parking: _____

Deputies (how many?) _____

Traffic Control: _____

_____

Fees: _____

Special Arrangements: _____

_____

_____

_____ _____ _____
Print Name **Approval Signature** **Date**

Fort Myers Beach Fire Control District

Life Safety Branch

100 Voorhis Street · Fort Myers Beach, Florida 33931
Phone (239) 590-4210 • Email: prevention@FMBFirefl.gov

Special Events Application and Guidebook

Event Type:

[X] Small Outdoor/Indoor Event	[ ] Large Outdoor/Indoor Event	[ ] Firework Display

Date of Application: 4/4/2026	Date of Event: OCT. 2026 - MAY 2027 SUN. TUES. THURS. See attached
Location: Santini Plaza 7205 ESTERO BLVD. FORT MYERS BEACH	
Event Start Date/Time: OCT 1 9AM	Event End Date/Time: MAY 30 1PM

Setup Date: same day as event	Setup Time: 6AM	Inspection Time: 9AM
Event Sponsor: SHOP LOCAL PRODUCTIONS		
Sponsor Contact: LINDA MILLER	Sponsor Phone #: 239.289.3786	Sponsor Email: SHOPLOCALPRO@GMAIL.COM

Anticipated Number of Attendees: 300	Anticipated Number of Event Workers: 1-2
Will there be carnival or mechanical rides: NO	Number of Stages: 0
Total Number of Vendors: 42	Total Number of Hot Food Vendors: 4
Number of Tents larger than 20 x 20: 0	Number of 10 x 10 Tents: 42

Every vendor with a booth will receive a fire inspection and is responsible for paying an inspection fee. Please list the contact information for the responsible party below. Margaret Figini 239.821.5352
CINDY ROSALES 239-878-9644, NICKO POULIAS 614-580-2756 G. LOPEZ 239.200.4766

Please Note: If the event sponsor elects not to pay the vendor's inspection fee, a list of vendors, with full contact information, must be provided to the Fort Myers Beach Fire District. This information shall include contact name, number, and e-mail. All inspection fees will be due at time of service, and must be paid prior to release of any approvals.

Event applications submitted less than thirty (30) days prior to the event will be subject to additional fees. An expedited review may be requested and will be based upon availability, additional fees will apply.

Applications shall include the following:

1. A legible site plan to include proposed layout of the event; fire hydrant locations; fire/emergency access; and distances to any structures.
2. A life safety evaluation may be required based on the size of the event in accordance with the fire code.
3. All vendors should review FMBFD guidelines, on our website at www.FMBFirefl.gov
4. Failure to comply with requirements of the FMBFD may result in additional fees and/or shutdown of the vendor(s).

LINDA MILLER
Submitting Party Name (Print)

Linda Miller
Submitting Party Name (Sign)

Date: 4/4/2026

Santini Farmers Market Event Description

Shop Local Productions, Linda Miller 239-289-3786

Santini Farmers Market features fresh produce and bakeries, food trucks, arts, crafts, boutique clothing and jewelry, home goods, snacks and beach gear; something for everyone with all price ranges.

Santini Farmers Market, voted by FMB locals "Neighborhood Favorite" many times on Nextdoor.com, has 4000+ Facebook followers and nearly 27000 monthly Facebook views increasing tourism to the South part of Fort Myers Beach. Santini retailers and restauranteurs need this weekly advertising to bolster their businesses. In combination with Trujillo Marketing our latest drone production has reached thousands in minutes.

Shop Local Productions has been an event coordinator on Fort Myers Beach since 2014 with 2 managers with nearly 100 years of combined, award-winning management experience.

Vendors will park behind their tents to conserve parking. Vendor set up is 2 hours before the event and closing is 1 hour after operational hours.

SHAKED PROPERTIES LLC

7205 Estero Blvd Box 718, Fort Myers Beach, FL 33931. 239-777-7251
Email: santinimarinaplaza@gmail.com

Santini Marina Plaza

7205 Estero Blvd

Fort Myers Beach, FL 33931

April 1, 2026

Permitting

City Fort Myers Beach

Please consider this my consent letter for the Santini Farmer's Market,

Sponsored by Linda Miller of Shop Local Productions.

To use our Parking Lot from October 1,2026 through May 31, 2027.

Thank you,

Sharon Magowan

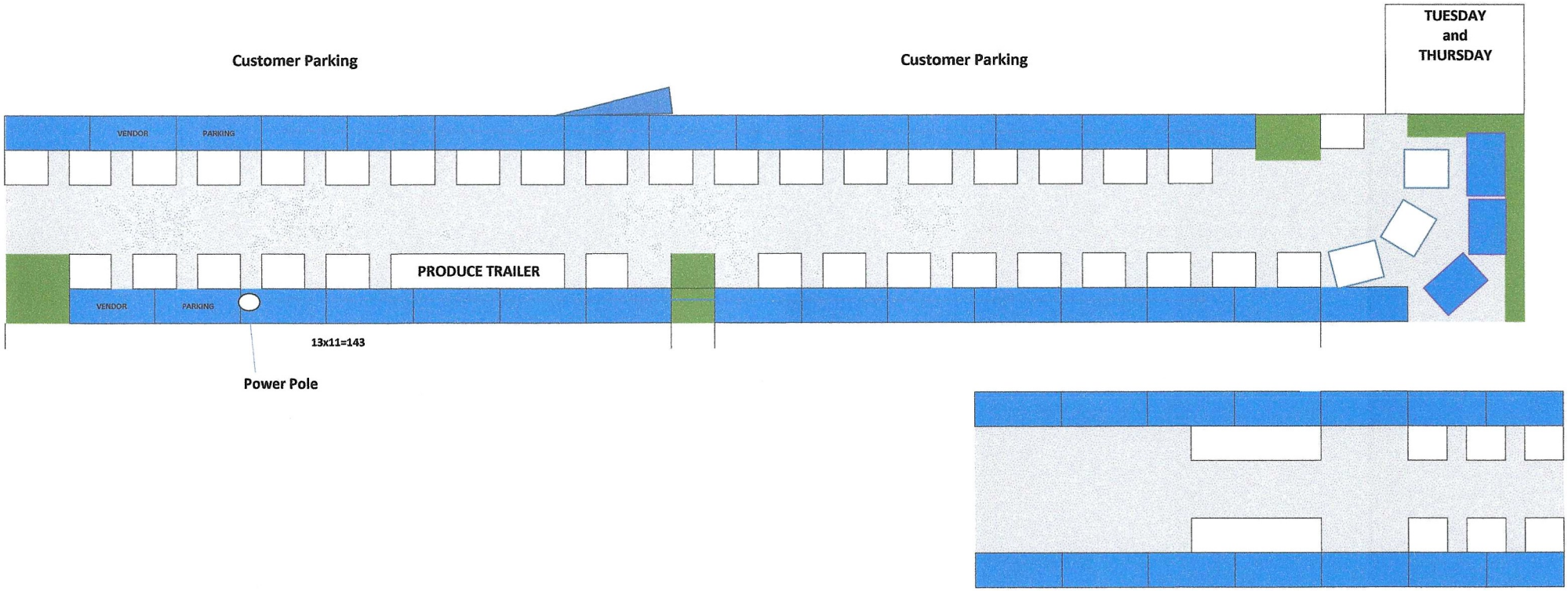
Sharon Magowan

Property Manager

Tel 239-777-7251

Best Regards,

Yariv Shaked


Customer Parking
Customer Parking
TUESDAY
and
THURSDAY
VENDOR
PARKING
PRODUCE TRAILER
VENDOR
PARKING
13x11=143
Power Pole

Evacuation Plan

Produce Trailer at Santini Marina Plaza

7205 Estero Blvd

Fort Myers Beach, FL 33931

Designated Zone AE per FEMA

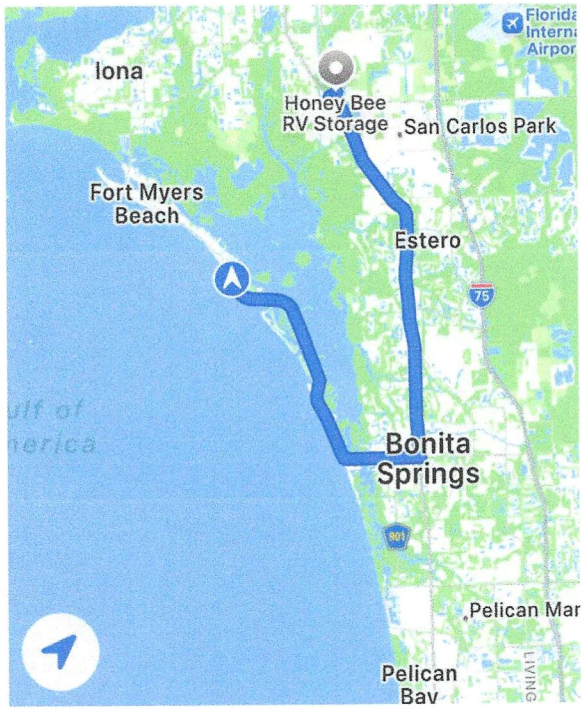
1. We have downloaded the FEMA and CodeRed apps to receive notifications and emergency alerts.

2. In the case of an emergency, we will promptly remove the trailer inland to a storage facility using a vehicle with proper towing capability.

3. We have established two evacuation routes off Fort Myers Beach.

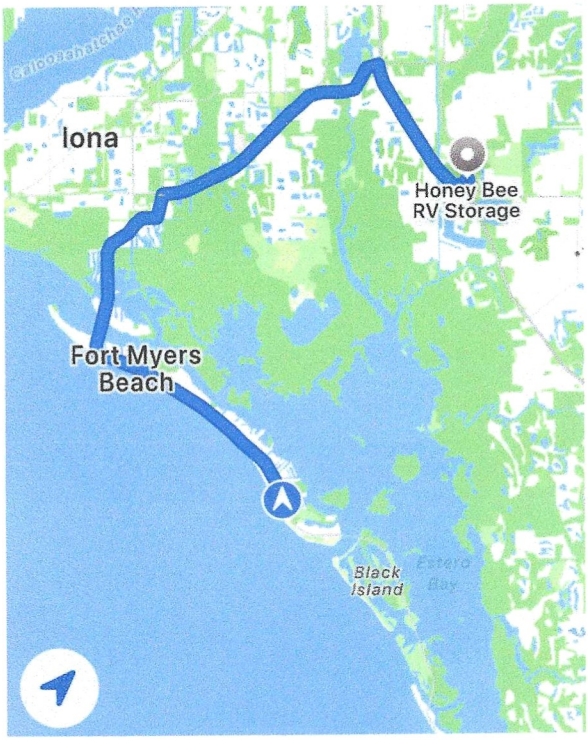
   Primary evacuation route:

   Exit Fort Myers Beach via Bonita beach Rd inland to storage facility.



Secondary evacuation route:

Exit Fort Myers Beach via San Carlos Blvd inland to storage facility.



HoneyBeeRV Storage
24300 S Tamiami Trail
Fort Myers, FL 34134

4. We will wait for authorities to announce when it is safe to return to Fort Myers Beach.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 09/30/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:		
Hiscox Inc. 5 Concourse Parkway Suite 2150 Atlanta GA, 30328	PHONE (A/C, No, Ext): (888) 202-3007	FAX (A/C, No):	
	E-MAIL ADDRESS: contact@hiscox.com		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Hiscox Insurance Company Inc		10200
INSURED	INSURER B :		
Watergemz, LLC DBA Shop Local Productions DBA Shop Local Productions 19552 The Place Blvd Estero, FL 33928	INSURER C :		
	INSURER D :		
	INSURER E :		
	INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY [ ] PRO-JECT [ ] LOC OTHER:	Y		P100.409.208.6	07/15/2025	07/15/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 2,000,000 $ 100,000 $ 5,000 $ 2,000,000 $ 2,000,000 $ S/T Gen. Agg. $
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ $ $ $ $
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE $	$ $ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

"Town of Fort Myers Beach, its officers, employees, and volunteers are included as Additional Insured on a primary and non-contributory basis, with a waiver of subrogation. The Town is also listed as a Loss Payee."

CERTIFICATE HOLDER

Town of Fort Myers Beach
6231 Estero Blvd.
Fort Myers Beach, Florida 33931

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mary J Boyd

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 06/05/2025

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							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ S/T Gen. Agg.
								$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N [ ] N / A If yes, describe under DESCRIPTION OF OPERATIONS below						[ ] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Shaked Properties LLC 7205 Estero Blvd. Fort Myers Beach, FL 33931

CERTIFICATE HOLDER

Shaked Properties LLC
7205 Estero Blvd. Box 718
Fort Myers Beach, Florida 33931

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mary J Boyd

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Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-507**

1. **Request:**

Meeting Date: June 15, 2026

Approval of a Special Event for the Fort Myers Beach Market to be held every Friday and Saturday from October 2026 through May 2027 at Times Square, located at 1000 Estero Boulevard, from 9:00 AM to 2:00 PM, as requested by Linda Miller of Shop Local Productions, including approximately 42 vendor spaces featuring artisan crafts, boutique merchandise, handmade goods, specialty retail items, local art, and other locally sourced products, along with event setup, operations, and breakdown, subject to further approval by the Fort Myers Beach Fire Control District and the Lee County Sheriff's Office.

Why the action is necessary:

This action is necessary pursuant to Section 22-7(5)(c) and Section 22-8 of the Town of Fort Myers Beach Code of Ordinances, as the Fort Myers Beach Market is a recurring special event consisting of multiple event dates held at the same location over an extended seasonal period from October 2026 through May 2027. Because the event is proposed as a recurring market operating multiple days per week on Town property within Times Square, with a consistent format, location, and anticipated attendance, Town Council approval is required prior to permit issuance.

What the action accomplishes:

Approve the Special Event application and its applicable waivers.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Other	Nora Skipper

5. **Background:**

Shop Local Productions is requesting approval for the recurring Fort Myers Beach Market to be held at Times Square, located at 1000 Estero Boulevard, every Friday and Saturday from October 2026 through May 2027, from 9:00 AM to 2:00 PM. The market is designed as a family-friendly, free-to-attend community event featuring approximately 42 vendors offering handmade items, artisan crafts, boutique goods, and other locally sourced products, with an estimated attendance of approximately 300 participants per event.

The purpose of the market is to support local businesses, increase tourism, provide residents and visitors with greater access to fresh produce and specialty goods, and enhance the beach atmosphere within the Times Square district. Vendors are responsible for trash removal and cleanup, and no amplified music, waiver requests, or additional utility services are included in the application. The event utilizes Town property within Times Square and, due to its recurring nature and multiple event dates over an extended seasonal period, Town Council approval is required pursuant to Chapter 22 of the Town of Fort Myers Beach Code of Ordinances.

Attachments:

1. Special Event Permit Application Time Square Market Shop Local Productions 2026 2027

Financial Impact:

6. **Alternative Action**

Deny the Special Event application and its applicable waivers.

7. **Management Recommendations:**
Approve the Special Event application and its applicable waivers.

8. **Recommended Approval:**

Nora Skipper,	Created/Initiated - 6/3/2026
nancy stuparich, Town Attorney	Approved - 6/5/2026
Amy Baker, Town Clerk	Approved - 6/5/2026
William McKannay, Town Manager	Final Approval - 6/5/2026

Town of Fort Myers Beach
Special Event Application Checklist

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Email: Specialevents@fmbgov.com

- [x] A **completed** application is to be turned in 45 days **prior** to the event or a $5.00 per day cost will be added to the permit cost. You need to submit application to FMB Fire and LSCO.

- [x] All necessary department approvals – an application is not considered completed until all approvals have been turned in to Town Hall.

- [x] If Town Council action is required the **completed** application must be turned in 60 days prior to the event in order to get put on the Council agenda to be brought forth to Council, also any application turned in after the 60 days a 10% additional charge to the permit will be added.

- [x] Detailed description of entire event including set up and breakdown

- [x] Letters of permission if using someone else's property for event.

- [x] Site plan – marked off with placement of objects (chairs, tables, tents, etc.)

- [x] Parking Plan – if applicable

- [x] Liability Insurance ($1 million each occurrence and $2 million general aggregate) naming the Town of Fort Myers Beach as certificate holder

- [x] A copy of the 500 foot notification letter for any amplification along with the mailing list

You must initial & sign you have read and understand all requirements above.

Town of Fort Myers Beach

2525 Estero Boulevard, Fort Myers Beach, Florida 33931
Tel: (239) 765-0202 Email: Specialevents@fmbgov.com

Name of event Fort Myers Beach Market
Attach separate sheet of paper with detailed description of event

Date(s) and times of event Fridays + Saturdays OCT. 2026 - MAY 2027

Address of event TIMES SQUARE 1000 ESTERO BLVD.

Expected # of participants/attendees 300

Sponsoring Organization SHOP LOCAL PRODUCTIONS

Organization address 7205 ESTERO BLVD FMB

Contact Person/Phone# LINDA MILLER 239-289.3786

E-mail SHOPLOCALPRO@GMAIL.COM

Amplified Music Y ☐ N ☒ 500 Ft Notifications _____ Copy of Letter _____

Renting Town Property Y ☒ N ☐ Renting Parking Spaces Y ☐ N ☒

How many Spaces? 42 How many hours 6

Extension of Premises? Y ☐ N ☐ ABT Form _____ How many days? 69 (Over 3 days needs to go to Council)

Letters of Permission to use Property na

Letters of Permission to use Parking na Parking Plan _____

Site Plan ✓ Insurance ✓ (Naming Town of FMB as Certificate Holder)

Requesting Water Y ☐ N ☒ Electric Y ☐ N ☒

Requires Council Approval:
Waiver of open container Y ☐ N ☒ Waiver of Town parking fees Y ☐ N ☒

Waiver of Noise Ordinance Y ☐ N ☒ Recurring Event Y ☒ N ☐

Applicant Signature Linda Miller

Printed Name Linda Miller

This permit is subject to the applicant meeting all requirements contained in Fort Myers Beach Code of Ordinance Book Part 2 Chapter 22 and in compliance with all items in the special event application.

Fort Myers Beach Market Dates

Fridays & Saturdays 9 am-2pm October 2026 – May 2027

October 2,3,9,10,16,17,23,24,30,31

November 6,7,13,14,20,21,27,28

December 4,5,11,12,18,19,26 Closed Christmas

January 1,2,8,9,15,16,22,23,29,30

February 5,6,12,13,19,20,26,27

March 5,6,12,13,19,20,26,27

April 2,3,9,10,16,17,23,24,30

May 1,7,8,14,15,21,22,28,29

Applicant to Complete:

Company managing trash removal: NA

No. of dumpsters: na **Type of dumpsters:** na

Who is responsible for clean-up and payment: Vendors remove trash

City right-of-way Parking Use: _____ **Number of spaces:** _____

To be completed by Town Hall employees:

FMB Public Works:

Public Works remarks: _____

Approval: _____ **Date:** _____

FMB Environment Science: Tel (239)765-0202

FMB Environmental Sciences remarks: _____

Approval: _____ **Date:** _____

Please forward the completed application and site plan along with the individual approval request to each identified agency below. Once complete return all to our office.

Florida DEP: DEP now provides an online application process for minor event approval

Self Certification for CCCL Permit Guidance Document: http://www.dep.state.fl.us/beaches/

FOR MAJOR EVENTS ONLY CONTACT

Kelly Cramer **Tel (239)770-7502 Fax(850)412-0590**
Email: kelly.cramer@floridadep.gov

Florida DEP remarks: _____

_____

_____

Check list: Application _____ **Site Plan** _____ **Description** _____

Florida DEP approval: _____ **Date:** _____

Turtle Time Inc.: Eve Haverfield **Tel (239)481-5566 eve@turtletime.org**

Turtle Season is May 1 through October 31

Turtle Time remarks: n/a

_____

Turtle Time approval: _____ **Date:** _____

FORT MYERS BEACH FIRE DEPT
100 Voorhis Street · Fort Myers Beach, Florida 33931 **Tel (239) 590-4210**

Fire Guards: (how many?) _____

Fee: _____

Flammable Vegetation: _____

First Aid Equipment: _____

Fire Extinguishing Equipment: _____

Special Arrangements: _____

_____

_____ _____ _____
Print Name **Approval Signature** **Date**

prevention@fmbfire.org – **For Fire Department Handbook and additional application.**

LEE COUNTY SHERIFF'S DEPT **Tel (239)477-1830 Fax (239)432-0268**
15650 Pine Ridge Road, Fort Myers, FL 33908

Parking: _____

Deputies (how many?) _____

Traffic Control: _____

_____

Fees: _____

Special Arrangements: _____

_____

_____

_____ _____ _____
Print Name **Approval Signature** **Date**

Fort Myers Beach Fire Control District

Life Safety Branch

100 Voorhis Street · Fort Myers Beach, Florida 33931
Phone (239) 590-4210 • Email: prevention@FMBFirefl.gov

Special Events Application and Guidebook

Event Type:

[X] Small Outdoor/Indoor Event		[ ] Large Outdoor/Indoor Event		[ ] Firework Display	
Date of Application: 4/4/2020		Date of Event: Fridays + Saturdays 9am 3pm			
Location: Times SQUARE 1000 ESTERO BLVD FMB					
Event Start Date/Time: 9AM		Event End Date/Time: 3pm			
Setup Date: same day as event	Setup Time: 6AM		Inspection Time: 9AM		
Event Sponsor: STOP LOCAL PRODUCTIONS					
Sponsor Contact: Linda Miller	Sponsor Phone #: 239.289.3786		Sponsor Email: STOPLOCALPRO@gmail.com		
Anticipated Number of Attendees: 300		Anticipated Number of Event Workers: 1-2			
Will there be carnival or mechanical rides: NO		Number of Stages: 0			
Total Number of Vendors: 42		Total Number of Hot Food Vendors: 1			
Number of Tents larger than 20 x 20: 0		Number of 10 x 10 Tents: 42			

Every vendor with a booth will receive a fire inspection and is responsible for paying an inspection fee. Please list the contact information for the responsible party below.

G. LOPEZ 239-200-4766

Please Note: If the event sponsor elects not to pay the vendor's inspection fee, a list of vendors, with full contact information, must be provided to the Fort Myers Beach Fire District. This information shall include contact name, number, and e-mail. All inspection fees will be due at time of service, and must be paid prior to release of any approvals.

Event applications submitted less than thirty (30) days prior to the event will be subject to additional fees. An expedited review may be requested and will be based upon availability, additional fees will apply.

Applications shall include the following:

1. A legible site plan to include proposed layout of the event; fire hydrant locations; fire/emergency access; and distances to any structures.
2. A life safety evaluation may be required based on the size of the event in accordance with the fire code.
3. All vendors should review FMBFD guidelines, on our website at www.FMBFirefl.gov
4. Failure to comply with requirements of the FMBFD may result in additional fees and/or shutdown of the vendor(s).

LINDA MILLER — Linda Miller

Submitting Party Name (Print) — Submitting Party Name (Sign)

Date: 4/4/2026

Fort Myers Beach Market Description (Friday and Saturday)

As being requested by Working Locals and Returning Tourists.

@Time Square

Sponsored by Shop Local Productions

Open Fridays and Saturdays 9am -1pm From October 2026 through May 2027

Mission:

To provide a family-friendly, free-to-attend event for all ages to convene and have access to healthy boutique foods, artisan crafts and other items.

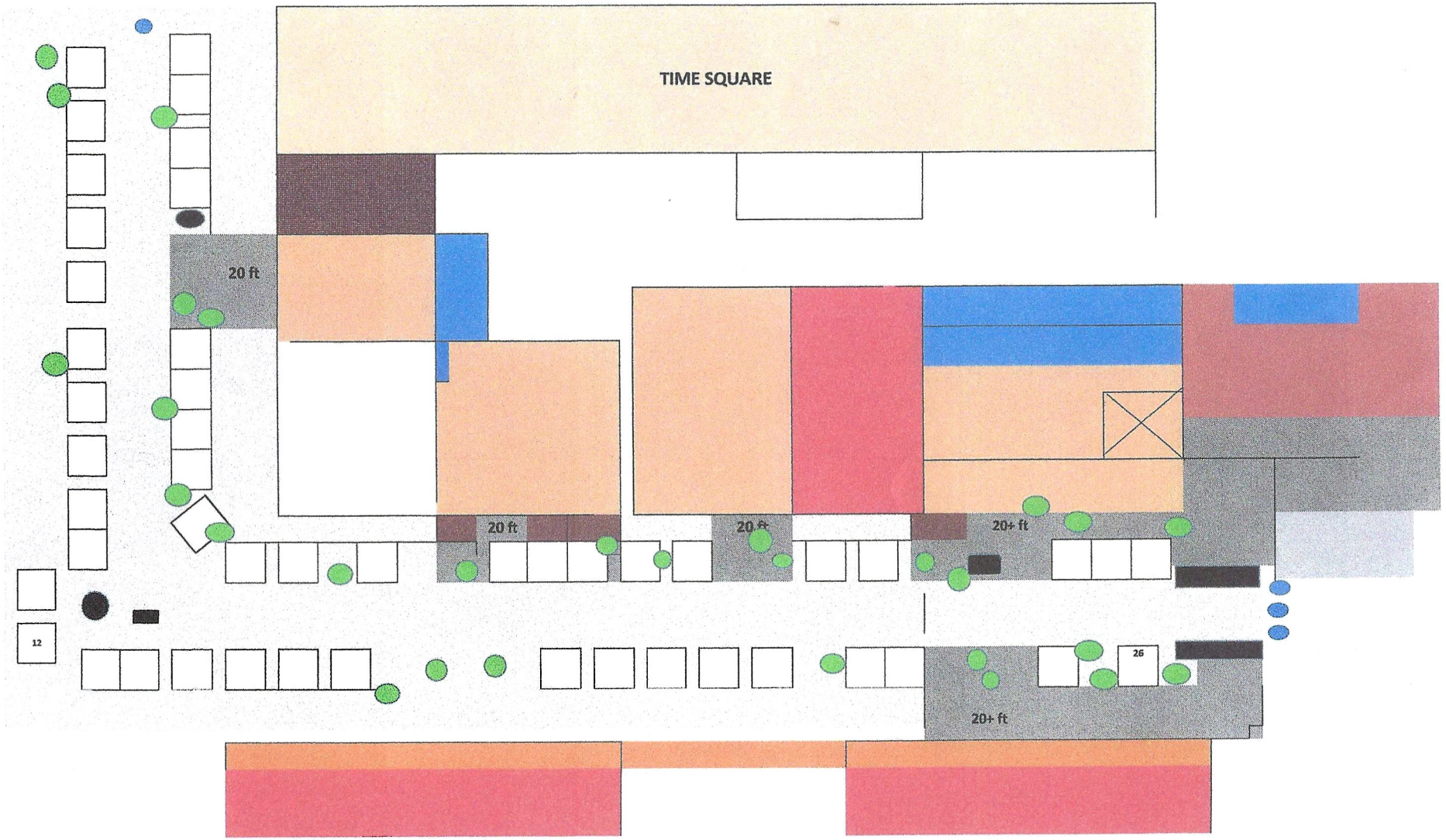
Description:

More than ever, FMB locals and visitors request the need for fresh varietal foods, and commodities brought to the island. With roots going back to 1934, Farmers Markets on FMB have been part of the fabric of beach life in a huge way for the past 30 years and reaching a peak of 4 days a week on different parts of the island pre-Hurricane Ian. Thie niche (cottage foods, coffee, bakeries, smoothies, skincare, art and wearable art) fills a void in island shopping. Since advertising is weekly with over 1 million monthly views on Facebook and Instagram, FMB Markets have a history of boosting local neighboring restaurants and businesses as well as the return of vibrant tourism. Markets create a beach vibe unique to FMB.

Superb Record:

Voted annually by locals as "Neighborhood Favorites," FMB Markets have had zero emergency calls and zero accidents in the tenure of leadership from Shop Local Productions since 2015, creating zero burden on emergency services and thus taxpayers.

Vendor inquires can be directed to 41markets.com.


TIME SQUARE
20 ft
20 ft
20 ft
20+ ft
12
26
20+ ft

CERTIFICATE OF LIABILITY INSURANCE

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PRODUCER
Hiscox Inc.
5 Concourse Parkway
Suite 2150
Atlanta GA, 30328

CONTACT NAME:
PHONE (A/C, No, Ext): (888) 202-3007 FAX (A/C, No):
E-MAIL ADDRESS: contact@hiscox.com

INSURER(S) AFFORDING COVERAGE		NAIC #
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INSURER B :		
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INSURER D :		
INSURER E :		
INSURER F :		

INSURED
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19552 The Place Blvd
Estero, FL 33928

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	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N [ ] N / A If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ $

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AUTHORIZED REPRESENTATIVE
Mary J Boyd

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Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-588**

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING THE MAYOR'S SIGNATURE AND APPROVAL OF THE JOINT RESOLUTION WITH THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS AND THE TOWN OF FORT MYERS BEACH PERTAINING TO AN URBAN COUNTY COOPERATION AGREEMENT FOR FEDERAL FISCAL YEARS 2026 TO 2028; AUTHORIZING THE TOWN MANAGER TO EXECUTE ANY ADDITIONAL DOCUMENTS NEEDED TO IMPLEMENT AND ADMINISTER THE TOWN'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT HOME INVESTMENT PARTNERSHIP AND EMERGENCY SOLUTIONS GRANT PROGRAMS FOR FEDERAL FISCAL YEARS 2026, 2027, AND 2028; AND PROVIDING AN EFFECTIVE DATE.

Why the action is necessary:

Ratification of the Mayor's signature is required.

What the action accomplishes:

Approval of the Joint Resolution covers the period necessary to carry out activities which will be funded from appropriations for the federal fiscal years 2026, 2027, and 2028 for which Lee County is to qualify and from any program income generated from the expenditure of such funds, including such additional time as may be required for the expenditure of any such funds granted to the Town of Fort Myers Beach.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	

5. **Background:**

The Urban County Cooperation Agreement was scheduled for automatic renewal unless written notice was provided prior to April 29, 2026. Lee County did not receive any written notice indicating a desire to opt out from the Town, and the Agreement moved forward toward automatic renewal in accordance with HUD requirements.

In preparation for this renewal, the Joint Resolution was updated to reflect the new effective dates for 2026, 2027, and 2028. In order to timely return the Joint Resolution back to Lee County and continue being eligible to utilize potential grant funding, the Mayor signed the Joint Resolution on June 4, 2026 and is now being brought before the Town Council for ratification and authorization for the Town Manager to further administer the programs.

The letter from Lee County was misdirected to an unmonitored email address and includes a scrivenor's error referencing the City of Sanibel rather than the Town of Fort Myers Beach. The Joint Resolution references the correct municipality.

Attachments:

1. NS 26-140, Ratify Lee County CDBG Joint Resolution
2. Exhibit A: FMB and Lee County Joint Resolution
3. FMB-Joint Res Letter

Financial Impact:

6. **Alternative Action**
Do not ratify the approval of the Joint Resolution and pariticaption in grant funding programs.

7. **Management Recommendations:**
Approve the ratification and funding program administration.

8. **Recommended Approval:**

Amy Baker, Town Clerk	Created/Initiated - 6/4/2026
Carolyn Luomala, Acting Controller	Approved - 6/5/2026
nancy stuparich, Town Attorney	Approved - 6/7/2026
Amy Baker, Town Clerk	Approved - 6/8/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-140

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RATIFYING THE MAYOR'S SIGNATURE AND APPROVAL OF THE JOINT RESOLUTION WITH THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS AND THE TOWN OF FORT MYERS BEACH PERTAINING TO AN URBAN COUNTY COOPERATION AGREEMENT FOR FEDERAL FISCAL YEARS 2026 TO 2028; AUTHORIZING THE TOWN MANAGER TO EXECUTE ANY ADDITIONAL DOCUMENTS NEEDED TO IMPLEMENT AND ADMINISTER THE TOWN'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT HOME INVESTMENT PARTNERSHIP AND EMERGENCY SOLUTIONS GRANT PROGRAMS FOR FEDERAL FISCAL YEARS 2026, 2027, AND 2028; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolution as may be required for the proper governing of the Town; and

WHEREAS, the Urban County Cooperation Agreement ("Agreement") was scheduled for automatic renewal unless written notice was provided prior to April 29, 2026 and with no written notice indicating a desire to opt out provided by the Town, the Agreement moved forward toward automatic renewal in accordance with HUD requirements; and

WHEREAS, the Joint Resolution attached as Exhibit A has been updated to reflect the new effective dates for 2026, 2027, and 2028 related to the Urban County Cooperation Agreement for HUD Community Development Block Grant (CDBG) funds for fiscal years 2026–2028.; and

WHEREAS, the Joint Resolution covers the period necessary to carry out activities which will be funded from appropriations for federal fiscal years 2026, 2027, and 2028 provided to Lee County and from any program income generated from the expenditure of such funds, including such additional time as may be required for the expenditure of any such funds granted to the Town of Fort Myers Beach; and

WHEREAS, in order to timely return the Joint Resolution back to Lee County after being sent to an inactive email address and to continue being eligible to utilize potential grant funding, the Mayor signed the Joint Resolution on June 4, 2026; and

WHEREAS, the Town Council finds and determines that it is in the best interest of the Town and its citizens to ratify the execution of the Mayor's signature on the Joint Resolution and direct and authorize the Town Manager to administration the programs for the noted federal fiscal years; and

WHEREAS, the approval of this Resolution is in the best interest of the residents of the Town of Fort Myers Beach.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. That above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein.

Section 2. That the Town Council hereby ratifies approval of the Joint Resolution signed by the Mayor attached as Exhibit A and directs the Town Manager to administer the programs on behalf of the Town.

Section 3. That the Town Manager is authorized to during the identified federal fiscal years execute and deliver any documents necessary to receive and administer funding associated through the programs listed in this resolution.

Section 4. This Resolution shall take effect retroactively to June 4, 2026 upon its adoption and ratification by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this 15th day of June 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____ .

LEE COUNTY RESOLUTION NO. _____

A JOINT RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS AND THE TOWN OF FORT MYERS BEACH PERTAINING THE MUNICIPALITY'S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIP (HOME), AND EMERGENCY SOLUTIONS GRANT (ESG) PROGRAMS, FEDERAL FISCAL YEARS 2026, 2027, and 2028; PROVIDING FOR CERTAIN COMMITMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Housing and Community Development Act of 1974, as amended, makes provisions whereby counties may enter into cooperation agreements with certain units of government to carry out activities which will be funded from annual CDBG entitlement grant; and

WHEREAS, the cooperation of the Town of Fort Myers Beach and County is essential for the successful planning and implementation of the CDBG, HOME and ESG Programs under an "Urban County" designation by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, this Resolution covers the period necessary to carry out activities which will be funded from appropriations for the federal fiscal years 2026, 2027, and 2028 for which Lee County is to qualify and from any program income generated from the expenditure of such funds, including such additional time as may be required for the expenditure of any such funds granted to the Town of Fort Myers Beach; and

WHEREAS, the Town of Fort Myers Beach, Florida and the Lee County Board of County Commissioners agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing; and

WHEREAS, the Town of Fort Myers Beach agrees to use its powers in carrying out the essential activities in accordance with the Urban County's Program; and

WHEREAS, the Lee County Board of County Commissioners and the Town of Fort Myers Beach agree to take all necessary actions to comply with the certification required by Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974, which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975, and other applicable laws; and

WHEREAS, The Town of Fort Myers Beach has adopted and is enforcing: (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and (2) a policy enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction; and

WHEREAS, pursuant to 24 CFR 570.501(b), the Town of Fort Myers Beach is subject to the same requirements applicable to subrecipients, including the requirement for a written agreement set forth in 24 CFR 570.503; and

WHEREAS, the Town of Fort Myers Beach has opted to be included in the Urban County Program for three years and agrees to abide by the Urban County Cooperative Agreement.

NOW, THEREFORE, BE RESOLVED by the Council of Town of Fort Myers Beach Lee County, Florida and the Lee County Board of County Commissioners agree to participate in the CDBG, HOME and ESG Programs for Federal Fiscal Years 2026, 2027, and 2028.

a. The County agrees to allocate to the Town of Fort Myers Beach the annual entitlement allocation for the Town as determined by the Secretary of HUD for fiscal years 2026, 2027, and 2028.

b. The County shall authorize the Town of Fort Myers Beach to use the aforementioned CDBG funds to implement its CDBG program activities provided such activities are in accordance with the Lee County Consolidated Plan and HUD regulations. In conformance with the Lee County Consolidated Plan, the Town of Fort Myers Beach will propose projects for inclusion in each year's Annual Plan which conform to 24 CFR 570 Subpart C and specifically, which conform to the following eligible activity types: Acquisition of Real Property (24 CFR 570.201(a)); Public Facilities and Improvements (24 CFR 570.201(c)); Clearance and Demolition (24 CFR 570.201(d)); Public Services (24 CFR 570.201(e) (The amount of CDBG funds used for Public Service activities cannot exceed 15% of the municipality's annual entitlement unless agreed to by the County); Construction of Housing (under limited circumstances as defined in regulations) (24 CFR 570.201(m)); Direct Homeownership Assistance (24 CFR 570.201(n)); Rehabilitation - Single Unit Residential (24 CFR 570.202); Rehabilitation - Multi Unit Residential (24 CFR 570.202); Acquisition - for Rehabilitation (24 CFR 570.202); Rehabilitation Administration (24 CFR 570.202); and Code Enforcement (24 CFR 570.202(c)). Projects identified for other eligible activity types must be agreed to by the County. Allocations of $20,000 or less must be allocated entirely to one activity, unless agreed to by the County.

c. The County has final responsibility for selecting CDBG, HOME and ESG program activities and annually filing the Final Statements with HUD. The County agrees to provide staff and technical assistance to the Town of Fort Myers Beach for reasonable activities in the planning, implementation, administration, and reporting of CDBG projects. The County may charge the municipality a general administrative operating fee, not to exceed 20% of the Town's

total entitlement. The general administrative operating fee will be based on the actual program administration rate of the County's previous fiscal year.

d. The County will notify the Town of Fort Myers Beach by January 1 of each year, the estimated amount of the Town's allocation and the general administrative operating fee for the upcoming October 1 fiscal year.

e. By May 1 of each year, the Town of Fort Myers Beach shall send a list of proposed activities to the County for an eligibility determination.

f. By August 1 of each year, the Town of Fort Myers Beach will officially notify the County in writing of how the funds will be allocated, in accordance item *b.*

g. The Town of Fort Myers Beach agrees to expend funds from the yearly entitlement allocation within 18 months of the first day of October of each entitlement program year. If the Town fails to expend funds within the 18 month time frame, the County has the right to expend these funds in accordance with HUD timeliness guidelines.

h. CDBG funds will be utilized through one of the following mechanisms:

1. A program or activity administered directly by the municipality.
2. A program or activity administered by a not for profit organization with IRS 501(c)3 status. The municipality must enter into a formal written agreement with the sub recipient, which includes all regulatory requirements found in 24 CFR 570.
3. A Memorandum of Understanding (MOU) to purchase services provided by Lee County such as housing rehabilitation. The municipality will enter into an MOU with the appropriate County department.

The County will enter into a contract with the Town of Fort Myers Beach for programs or activities directly administered by the municipality or provided by a subrecipient. The

municipality and all subrecipients are subject to all CDBG regulatory and programmatic requirements. The Town of Fort Myers Beach will provide all County and HUD-required documentation and designate a staff person responsible for meeting all HUD reporting and performance requirements.

i. The Town of Fort Myers Beach is responsible to meet all required timeframes as identified by the County in order for the County to report to HUD as required. Failure to provide required reporting documents to meet all required timeframes as designated by the County may result in the County assessing a fine. The County will be responsible for the overall administration including, but not limited to the HUD Consolidated Plan, performance reports, and management of the CDBG program in accordance with the applicable HUD regulations. Any disputes between the Town of Fort Myers Beach and County regarding any other issues not required to meet the conformance of the HUD program may be resolved by the Board of County Commissioners and the Council of the Town of Fort Myers Beach. In the event that the dispute cannot be resolved between the Board of County Commissioners and the Council of the Town of Fort Myers Beach, Chapter 164, Florida Statutes regarding dispute resolution shall be applicable.

j. The Town of Fort Myers Beach agrees to abide by all HUD regulations regarding real property acquired or improved in whole or in part using the CDBG funds and to notify the County in writing prior to disposition of or transfer of real property. Any program income generated from the disposition or transfer of property shall be paid to the County.

k. The Town of Fort Myers Beach will hold the County harmless for any expenditures that are made by the Town of Fort Myers Beach or any subrecipient agency. The Town of Fort Myers Beach will reimburse the County for any HUD entitlement funds that are expended by the Town of Fort Myers Beach or any subrecipient agency that does not conform to HUD or County guidelines along with any fines, penalties, or legal costs incurred as a result of such action. As required by Consolidated and Further Continuing Appropriations Act, 2016, Public Law 114-113, the Town of Fort Myers Beach may not sell, trade or otherwise transfer all or any portion of funds to another

metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credit or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

Section 2. The Mayor and /or Chairman is hereby authorized to sign this Joint Resolution and the Town Clerk to attest to same.

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

IN WITNESS WHEREOF, the County and the Town have executed this agreement as of the date first written above.

TOWN OF FORT MYERS BEACH

BY: _____
Signature of Authorized Officer

Dan Allers
Printed Name

Title: Mayor
Date: June 4, 2026

ATTEST: TOWN CLERK

BY: _____

Title: Town Clerk

Date: June 5, 2026

APPROVED AS TO FORM:

BY: _____
Town Attorney

Nancy Stuparich
Printed Name

Town Attorney
Title

June 5, 2026
Date

SEAL:

COUNTY: LEE COUNTY

BY: _____
Signature of Authorized Officer

_____
Printed Name

Title: Board of County Commissioners
Date: _____

APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

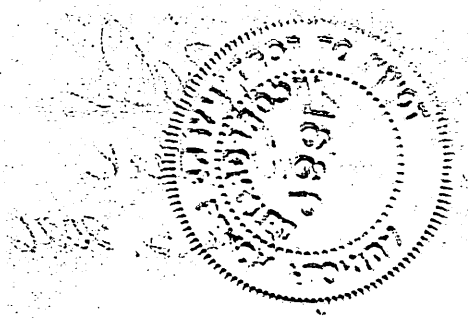
BY: _____
County Attorney's Office

_____
Printed Name

_____
Title

_____
Date

SEAL:



Lee County
Southwest Florida

Board of County Commissioners

Kevin Ruane
District One

Cecil L Pendergrass
District Two

David Mulicka
District Three

Brian Hamman
District Four

Trish Petrosky
District Five

Dave Harner, II
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing Examiner

April 30, 2026

William McKannay, Town Manager
Town of Fort Myers Beach
2525 Estero Blvd
Fort Myers Beach, FL 33931

RE: Community Development Block Grant (CDBG) Joint Resolution for Urban County Cooperation Agreement HUD Fiscal Years 2026-2028.

Mr. McKannay,

In the letter dated April 16, 2026, notification was provided that the Urban County Cooperation Agreement for HUD Entitlement funds would be automatically renewed unless the unit of government notified Lee County Human and Veteran Services and HUD in writing before April 29, 2026.

In anticipation of the renewal of the Urban County Cooperation Agreement, enclosed is the Joint Resolution for administration of the Urban County between the City of Sanibel and the Lee County Board of County Commissioners. There are a few changes from the previous resolution adopted in the last cycle. These changes include:

1. The effective dates were updated to reflect the three-year period: 2026, 2027, and 2028.

Please return three approved and signed copies of the Joint Resolution to this office June, 1 2026. Upon receipt, the Board of County Commissioners will sign the Joint Resolution and return a signed copy for your records.

If you have any questions regarding this matter, please contact Rae Isley, Fiscal Manager, at 239-533-7930 or by email at risley2@leegov.com.

Sincerely,

Julie Boudreaux, Director
Lee County Human and Veteran Services

cc: Dave Harner, County Manager
Amanda Condomina, Assistant County Manager
Amanda Swindle, Assistant County Attorney
Rae Isley, Fiscal Manager, Human and Veteran Services
Kim Usa, Community Impact Manager, Human and Veteran Services

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-596**

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SUBRECIPIENT AGREEMENT H1360 WITH THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT FOR HMGP PROJECT NUMBER 4673-312-R FOR TOWN OF FORT MYERS BEACH MULTIPLE PROPERTIES ELEVATION IN THE AMOUNT OF $5,688,229.25; AUTHORIZING THE TOWN MANAGER TO ADMINISTER THE AGREEMENT AND PROGRAM INCLUDING EXECUTING ALL RELATED DOCUMENTS, ATTACHMENTS, AND CERTIFICATIONS; PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Execution of this agreement is required to formally obligate the awarded federal funds and authorize the Town to begin procurement of a licensed Florida contractor and administration of the grant. The agreement establishes the legal framework under which the Town may incur reimbursable costs, submit quarterly reports, and draw down federal funds. Without an executed agreement, no work may proceed and no reimbursements may be processed. Additionally, several administrative deadlines are already running — including a 12-month window from the FEMA award date (March 11, 2026) to submit pre-construction structural inspection reports to FDEM.

What the action accomplishes:

Formally obligates $5,688,229.25 in HMGP federal funds (CFDA 97.039) to the Town of Fort Myers Beach for flood mitigation at 25 residential properties.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Frankie Kropacek, Community Development Director

5. **Background:**

Following Hurricane Ian (FEMA Disaster Declaration 4673-DR-FL), the Town of Fort Myers Beach applied for Hazard Mitigation Grant Program (HMGP) funding to elevate twenty-five (25) single-family residences located within Special Flood Hazard Areas (SFHA) on Estero Island. FEMA awarded this project on March 11, 2026. The Florida Division of Emergency Management (FDEM) serves as the pass-through entity and has transmitted Sub-Recipient Agreement H1360 for execution.

The total project cost is $7,933,678.00, structured as a 75/25 federal-to-local cost share. The federal obligation under this agreement is $5,688,229.25 (75%), with a non-federal match requirement of $1,983,419.50 (25%). An additional $21,316.25 in Sub-Recipient Management Costs (SRMC) is included at 100% federal funding. The Period of Performance runs from November 2, 2023, through May 31, 2028.

The scope of work requires elevating each of the 25 participating residential structures to a minimum of two feet above Base Flood Elevation (BFE), including foundation work, utility disconnection and reconnection, permitting, and all required inspections and closeout documentation. Six properties require coastal VE Zone foundation design to account for wave action and scour; four properties require lift platform installation due to medical conditions of the homeowners.

Attachments:

1. NS 26-123, HMGP Elevation Grant Approval
2. Exhibit A: 4673-312-R Subrecipient Agreement

Financial Impact:

The total project cost is $7,933,678.00, structured as a 75/25 federal-to-local cost share. The federal obligation under this agreement is $5,688,229.25 (75%), with a non-federal match requirement of $1,983,419.50 (25%). An additional $21,316.25 in Sub-Recipient Management Costs (SRMC) is included at 100% federal funding. The Period of Performance runs from November 2, 2023, through May 31, 2028.

6. **Alternative Action**

Decline to execute the agreement

7. **Management Recommendations:**

Town Management recommends approval. This is a fully awarded federal grant with no new appropriation required beyond the previously identified local match. The project directly advances the Town's long-term recovery and resilience objectives and represents a significant federal investment in the protection of residential structures on Estero Island. Procurement and administration will be managed through the Contracts & Procurement Office in compliance with all applicable federal, state, and local requirements.

8. **Recommended Approval:**

Conor Nally, Contracts & Procurement Manager	Created/Initiated - 6/4/2026
Frankie Kropacek, Community Development Director	Approved - 6/4/2026
Conor Nally, Contracts & Procurement Manager	Approved - 6/4/2026
Joe Onzick, Finance Director	Approved - 6/4/2026
Carolyn Luomala, Acting Controller	Approved - 6/5/2026
nancy stuparich, Town Attorney	Approved - 6/7/2026
Amy Baker, Town Clerk	Approved - 6/8/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-123

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SUBRECIPIENT AGREEMENT H1360 WITH THE FLORIDA DIVISION OF EMERGENCY MANAGEMENT FOR HMGP PROJECT NUMBER 4673-312-R FOR TOWN OF FORT MYERS BEACH MULTIPLE PROPERTIES ELEVATION IN THE AMOUNT OF $5,688,229.25; AUTHORIZING THE TOWN MANAGER TO ADMINISTER THE AGREEMENT AND PROGRAM INCLUDING EXECUTING ALL RELATED DOCUMENTS, ATTACHMENTS, AND CERTIFICATIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolution as may be required for the proper governing of the Town; and

WHEREAS, the Town of Fort Myers Beach, Florida (the "Town") submitted a Hazard Mitigation Grant Program ("HMGP") application for a project titled Fort Myers Beach Multiple Properties Elevation after funding was made available after Hurricane Ian; and

WHEREAS, the Town has received approval of the project and funding in the amount of $5,688,229.25; and

WHEREAS, as part of the process to utilize this funding, the State of Florida Division of Emergency Management has created a subrecipient grant agreement numbered H1360 ("the Grant") to administer these funds attached as Exhibit A; and

WHEREAS, the Town Council finds and determines that it is in the best interest of the Town and its citizens to authorize the execution of the Grant and the administration thereof upon execution; and

WHEREAS, the Town desires to authorize the Mayor to execute the Subrecipient Agreement and the Town Mansager to administer the Grant for an on behalf of the Town; and

WHEREAS, the Town Council desires to authorize the Town Manager to execute and deliver all documents necessary to carry out the administration of the Grant.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. That above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein.

Section 2. That the Town Council hereby authorizes and instructs the Mayor to execute the Grant and the Town Manager to administer the Grant on behalf of the Town attached as Exhibit A.

Section 3. That Town Manager William McKannay is hereby authorized to execute and deliver any documents necessary to administer the Grant award on behalf of the Town.

Section 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John McLean, Council Member	___

ADOPTED this 15th day of June 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

FORT MYERS BEACH TOWN COUNCIL

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____ .

SUB-RECIPIENT AGREEMENT CHECKLIST

DIVISION OF EMERGENCY MANAGEMENT
MITIGATION BUREAU
FISCAL OPERATIONS UNIT
HMGP

REQUEST FOR REVIEW AND APPROVAL	
SUB-RECIPIENT:	Town of Fort Myers Beach
PROJECT #:	4673-312-R
PROJECT TITLE:	Town of Fort Myers Beach, Multiple Properties, Elevation
CONTRACT #:	H1360
MODIFICATION #:	N/A

SUB-RECIPIENT REPRESENTATIVE (POINT OF CONTACT)
Frank Kropacek Contracts Manager 2525 Estero Boulevard Fort Myers Beach, Florida 33931

Enclosed is your copy of the proposed contract/modification between **Town of Fort Myers Beach** and the Florida Division of Emergency Management (FDEM).

	COMPLETE
☒	This form is required to be included with all Reviews, Approvals, and Submittals
☒	Reviewed and Approved
☒	Signed & Dated Electronic Copy by Official Representative
☒	**Copy of the organization's resolution or charter** that specifically identifies the person or position that is authorized to sign, if not Chairman, Mayor, or Chief
☒	Attachment I - Federal Funding Accountability and Transparency Act (FFATA) - completed, signed, and dated ☐ N/A for Modifications or State Funded Agreements
☒	Attachment K – Certification Regarding Lobbying - completed, signed, and dated ☐ N/A for Modifications or State Funded Agreements
☒	Attachment L – FACTS - completed, signed, and dated ☐ N/A for Modifications or State Funded Agreements
☒	Attachment M – Foreign County of Concern Affivadit completed, signed, and dated ☐ N/A for Modifications or State Funded Agreements
☒	Electronic Submittal to the Grant Specialist

If you have any questions regarding this contract, or who is authorized to sign it, please contact your Project Manager at (850) 290-2511 or email me at Nicole.Rowe@yagroup.com.

Agreement Number: **H1360**

Project Number: **4673-312-R**

FEDERALLY-FUNDED SUBAWARD AND GRANT AGREEMENT

2 C.F.R. §200.1 states that a "subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract."

As defined by 2 C.F.R. §200.1, "pass-through entity" means "a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program."

As defined by 2 C.F.R. §200.1 , "Sub-Recipient" means "an entity, usually but not limited to non-Federal entities that receives a subaward from a pass-through entity to carry out part of a Federal program."

As defined by 2 C.F.R. §200.1, "Federal award" means "Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity."

As defined by 2 C.F.R. §200.1, "subaward" means "an award provided by a pass-through entity to a Sub-Recipient for the Sub-Recipient to carry out part of a Federal award received by the pass-through entity."

The following information is provided pursuant to 2 C.F.R. §200.332:

Sub-Recipient's name:	Town of Fort Myers Beach
Sub-Recipient's unique entity identifier (UEI/FEIN):	J87EFSEEQ884 / 650632342
Federal Award Identification Number (FAIN):	FEMA-DR-4673-FL
Federal Award Date:	March 11, 2026
Subaward Period of Performance Start and End Date:	November 2, 2023 – May 31, 2028
Amount of Federal Funds Obligated by this Agreement:	$5,688,229.25
Total Amount of Federal Funds Obligated to the Sub-Recipient by the pass-through entity to include this Agreement:	$5,971,574.75
Total Amount of the Federal Award committed to the Sub-Recipient by the pass-through entity	$5,971,574.75
Federal award project description (see FFATA):	Elevation
Name of Federal awarding agency:	Federal Emergency Management Agency
Name of pass-through entity:	FL Division of Emergency Management
Contact information for the pass-through entity:	Nicole.Rowe@yagroup.com
Catalog of Federal Domestic Assistance (CFDA) Number and Name:	97.039 Hazard Mitigation Grant Program
Whether the award is R&D:	N/A
Indirect cost rate for the Federal award:	N/A

THIS AGREEMENT is entered into by the State of Florida, Division of Emergency Management, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Division"), and Town of Fort Myers Beach, (hereinafter referred to as the "Sub-Recipient").

For the purposes of this Agreement, the Division serves as the pass-through entity for a Federal award, and the Sub-Recipient serves as the recipient of a subaward.

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

A. The Sub-Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein;

B. The State of Florida received these grant funds from the Federal government, and the Division has the authority to subgrant these funds to the Sub-Recipient upon the terms and conditions outlined below; and,

C. The Division has statutory authority to disburse the funds under this Agreement.

THEREFORE, the Division and the Sub-Recipient agree to the following:

(1) APPLICATION OF STATE LAW TO THIS AGREEMENT

2 C.F.R. §200.302(a) provides: “Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds.” Therefore, section 215.971, Florida Statutes, entitled “Agreements funded with federal or state assistance”, applies to this Agreement.

(2) LAWS, RULES, REGULATIONS AND POLICIES

a. The Sub-Recipient's performance under this Agreement is subject to 2 C.F.R. Part 200, entitled “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”

b. As required by section 215.971(1), Florida Statutes, this Agreement includes:

i. A provision specifying a scope of work that clearly establishes the tasks that the Sub-Recipient is required to perform.

ii. A provision dividing the agreement into quantifiable units of deliverables that must be received and accepted in writing by the Division before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.

iii. A provision specifying the financial consequences that apply if the Sub-Recipient fails to perform the minimum level of service required by the agreement.

iv. A provision specifying that the Sub-Recipient may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period.

v. A provision specifying that any balance of unobligated funds which has been advanced or paid must be refunded to the Division.

vi. A provision specifying that any funds paid in excess of the amount to which the Sub-Recipient is entitled under the terms and conditions of the agreement must be refunded to the Division.

c. In addition to the foregoing, the Sub-Recipient and the Division shall be governed by all applicable State and Federal laws, rules and regulations, including those identified in Attachment B. Any express reference in this Agreement to a particular statute, rule, or regulation in no way implies that no other statute, rule, or regulation applies.

(3) CONTACT

a. In accordance with section 215.971(2), Florida Statutes, the Division's Grant Manager shall be responsible for enforcing performance of this Agreement's terms and conditions and shall serve as the Division's liaison with the Sub-Recipient. As part of his/her duties, the Grant Manager for the Division shall:

i. Monitor and document Sub-Recipient performance; and,

ii. Review and document all deliverables for which the Sub-Recipient requests payment.

b. The Division's Grant Manager for this Agreement is:

Nicole Rowe
Project Manager
Bureau of Mitigation
Florida Division of Emergency Management
2489 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
Telephone: 850-290-2511
Email: Nicole.Rowe@yagroup.com

The Division's Alternate Grant Manager for this Agreement is:

Kathleen Marshall
Community Program Manager
Bureau of Mitigation
Florida Division of Emergency Management
2489 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
Telephone: 850-815-4503
Email: Kathleen.Marshall@em.myflorida.com

1. The name and address of the Representative of the Sub-Recipient responsible for the administration of this Agreement is:

   Frank Kropacek
   Contracts Manager
   2525 Estero Boulevard
   Fort Myers Beach, Florida 33931
   Telephone: 239-765-0202 ext. 1404
   Email: fkropacek@fmbgov.com

2. In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be provided to the other party.

(4) TERMS AND CONDITIONS

This Agreement contains all the terms and conditions agreed upon by the parties.

(5) EXECUTION

This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(6) MODIFICATION

Either party may request modification of the provisions of this Agreement. Changes which are agreed upon shall be valid only when in writing, signed by each of the parties, and attached to the original of this Agreement.

(7) SCOPE OF WORK

The Sub-Recipient shall perform the work in accordance with the Budget and Scope of Work, Attachment A of this Agreement.

(8) PERIOD OF AGREEMENT

This Agreement shall begin on November 2, 2023, and shall end on May 31, 2028, unless terminated earlier in accordance with the provisions of Paragraph (17) of this Agreement. Consistent with the definition of “period of performance” contained in 2 C.F.R. §200.1, the term “period of agreement” refers to the time during which the Sub-Recipient “may incur new obligations to carry out the work authorized under” this Agreement. In accordance with section 215.971(1)(d), Florida Statutes, the Sub-Recipient may expend funds authorized by this Agreement “only for allowable costs resulting from obligations incurred during” the period of agreement.

The terms of this Agreement are intended to encompass the Pre-Award period. If applicable, the Pre-Award period and FEMA approved Pre-Award costs shall be outlined in Attachment A of this Agreement (“Budget and Scope of Work”).

(9) FUNDING

a. This is a cost-reimbursement Agreement, subject to the availability of funds.

b. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with either chapter 216, Florida Statutes, or the Florida Constitution.

c. The Division will reimburse the Sub-Recipient only for allowable costs incurred by the Sub-Recipient in the successful completion of each deliverable. The maximum reimbursement amount for each deliverable is outlined in Attachment A of this Agreement ("Budget and Scope of Work"). The maximum reimbursement amount for the entirety of this Agreement is **$5,688,229.25**.

d. As required by 2 C.F.R. §200.415(a), any request for payment under this Agreement must include a certification, signed by an official who is authorized to legally bind the Sub-Recipient, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

e. The Division will review any request for reimbursement by comparing the documentation provided by the Sub-Recipient against a performance measure, outlined in Attachment A, that clearly delineates:

i. The required minimum acceptable level of service to be performed; and,

ii. The criteria for evaluating the successful completion of each deliverable.

f. The performance measure required by section 215.971(1)(b), Florida Statutes, remains consistent with the requirement for a "performance goal", which is defined in 2 C.F.R. §200.1 as "a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared." It also remains consistent with the requirement, contained in 2 C.F.R. §200.329, that the Division and the Sub-Recipient "relate financial data to performance goals and objectives of the Federal award."

g. If authorized by the Federal Awarding Agency, then the Division will reimburse the Sub-Recipient for overtime expenses in accordance with 2 C.F.R. §200.430 ("Compensation—personal services") and 2 C.F.R. §200.431 ("Compensation—fringe benefits"). If the Sub-Recipient seeks reimbursement for overtime expenses for periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause (*See* 29 U.S.C. §207(e)(2)), then the Division will treat the expense as a fringe benefit. 2 C.F.R. §200.431(a) defines fringe benefits as "allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages." Fringe benefits are allowable under this Agreement as long as

the benefits are reasonable and are required by law, Sub-Recipient-employee agreement, or an established policy of the Sub-Recipient. 2 C.F.R. §200.431(b) provides that the cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

i. They are provided under established written leave policies;

ii. The costs are equitably allocated to all related activities, including Federal awards; and,

iii. The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees.

h. If authorized by the Federal Awarding Agency, then the Division will reimburse the Sub-Recipient for travel expenses in accordance with 2 C.F.R. §200.474. As required by the Reference Guide for State Expenditures, reimbursement for travel must be in accordance with section 112.061, Florida Statutes, which includes submission of the claim on the approved state travel voucher. If the Sub-Recipient seeks reimbursement for travel costs that exceed the amounts stated in section 112.061(6)(b), Florida Statutes ($6 for breakfast, $11 for lunch, and $19 for dinner), then the Sub-Recipient must provide documentation that:

i. The costs are reasonable and do not exceed charges normally allowed by the Sub-Recipient in its regular operations as a result of the Sub-Recipient's written travel policy; and,

ii. Participation of the individual in the travel is necessary to the Federal award.

i. The Division's grant manager, as required by section 215.971(2)(c), Florida Statutes, shall reconcile and verify all funds received against all funds expended during the grant agreement period and produce a final reconciliation report. The final report must identify any funds paid in excess of the expenditures incurred by the Sub-Recipient.

j. As defined by 2 C.F.R. §200.1, the term "improper payment" means or includes:

i. Any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and,

ii. Any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

k. No reimbursements shall be made for costs outside the period of agreement, as defined in paragraph (8) of this Agreement.

(10) <u>RECORDS</u>

a. As required by 2 C.F.R. §200.336, the Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the Division, or any of their authorized representatives, shall enjoy the right of access to any documents, papers, or other records of the Sub-Recipient which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Sub-Recipient's personnel for the purpose of interview and discussion related to such documents. Finally, the right of access is not limited to the required retention period but lasts as long as the records are retained.

b. As required by 2 C.F.R. §200.332(a)(5), the Division, the Chief Inspector General of the State of Florida, the Florida Auditor General, or any of their authorized representatives, shall enjoy the right of access to any documents, financial statements, papers, or other records of the Sub-Recipient which are pertinent to this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Sub-Recipient's personnel for the purpose of interview and discussion related to such documents.

c. As required by Florida Department of State's record retention requirements (Chapter 119, Florida Statutes) and by 2 C.F.R. §200.334, the Sub-Recipient shall retain sufficient records to show its compliance with the terms of this Agreement, as well as the compliance of all subcontractors or consultants paid from funds under this Agreement, for a period of five (5) years from the date of submission of the final expenditure report. The following are the only exceptions to the five (5) year requirement:

i. If any litigation, claim, or audit is started before the expiration of the 5-year period, then the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

ii. When the Division or the Sub-Recipient is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

iii. Records for real property and equipment acquired with Federal funds must be retained for 5 years after final disposition.

iv. When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 5-year retention requirement is not applicable to the Sub-Recipient.

v. Records for program income transactions after the period of performance. In some cases, recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

vi. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a

particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

d. In accordance with 2 C.F.R. §200.335, the Federal awarding agency must request transfer of certain records to its custody from the Division or the Sub-Recipient when it determines that the records possess long-term retention value.

e. In accordance with 2 C.F.R. §200.336, the Division must always provide or accept paper versions of Agreement information to and from the Sub-Recipient upon request. If paper copies are submitted, then the Division must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

f. As required by 2 C.F.R. §200.303, the Sub-Recipient shall take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or the Division designates as sensitive or the Sub-Recipient considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

g. Florida's Government in the Sunshine Law (Section 286.011, Florida Statutes) provides the citizens of Florida with a right of access to governmental proceedings and mandates three, basic requirements: (1) meetings of public boards or commissions must be open to the public; (2) reasonable notice of such meetings must be given; and, (3) minutes of the meetings must be taken and promptly recorded. The mere receipt of public funds by a private entity, standing alone, is insufficient to bring that entity within the ambit of the open government requirements. However, the Government in the Sunshine Law applies to private entities that provide services to governmental agencies and that act on behalf of those agencies in the agencies' performance of their public duties. If a public agency delegates the performance of its public purpose to a private entity, then, to the extent that private entity is performing that public purpose, the Government in the Sunshine Law applies. For example, if a volunteer fire department provides firefighting services to a governmental entity and uses facilities and equipment purchased with public funds, then the Government in the Sunshine Law applies to board of directors for that volunteer fire department. Thus, to the extent that the Government in the Sunshine Law applies to the Sub-Recipient based upon the funds provided under this Agreement, the meetings of the Sub-Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board may be subject to open government requirements. These meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records, available to the public in accordance with chapter 119, Florida Statutes.

h. Florida's Public Records Law provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. Unless specifically exempted

from disclosure by the Legislature, all materials made or received by a governmental agency (or a private entity acting on behalf of such an agency) in conjunction with official business which are used to perpetuate, communicate, or formalize knowledge qualify as public records subject to public inspection. The mere receipt of public funds by a private entity, standing alone, is insufficient to bring that entity within the ambit of the public record requirements. However, when a public entity delegates a public function to a private entity, the records generated by the private entity's performance of that duty become public records. Thus, the nature and scope of the services provided by a private entity determine whether that entity is acting on behalf of a public agency and is therefore subject to the requirements of Florida's Public Records Law.

i. The Sub-Recipient shall maintain all records for the Sub-Recipient and for all subcontractors or consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives of the Budget and Scope of Work - Attachment A - and all other applicable laws and regulations.

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: (850) 815-7671 Records@em.myflorida.com, or 2489 Shumard Oak Boulevard, Tallahassee, FL 32399.

(11) AUDITS

a. The Sub-Recipient shall comply with the audit requirements contained in 2 C.F.R. Part 200, Subpart F.

b. In accounting for the receipt and expenditure of funds under this Agreement, the Sub-Recipient shall follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. §200.1, GAAP "has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."

c. When conducting an audit of the Sub-Recipient's performance under this Agreement, the Division shall use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. §200.1, GAGAS, "also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."

d. If an audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of this Agreement, the Sub-Recipient shall be held liable for reimbursement to the Division of all funds not spent in accordance with these applicable regulations and

Agreement provisions within thirty (30) days after the Division has notified the Sub-Recipient of such non-compliance.

e. The Sub-Recipient shall have all audits completed by an independent auditor, which is defined in section 215.97(2)(i), Florida Statutes, as "an independent certified public accountant licensed under chapter 473." The independent auditor shall state that the audit complied with the applicable provisions noted above. The audit must be received by the Division no later than nine months from the end of the Sub-Recipient's fiscal year.

f. The Sub-Recipient shall send copies of reporting packages for audits conducted in accordance with 2 C.F.R. Part 200, by or on behalf of the Sub-Recipient, to the Division at the following address:

DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General

2489 Shumard Oak Boulevard

Tallahassee, Florida 32399-2100

g. The Sub-Recipient shall send the Single Audit reporting package and Form SF-SAC to the Federal Audit Clearinghouse by submission online at:

http://harvester.census.gov/fac/collect/ddeindex.html

h. The Sub-Recipient shall send any management letter issued by the auditor to the Division at the following address:

DEMSingle_Audit@em.myflorida.com

OR

Office of the Inspector General

2489 Shumard Oak Boulevard

Tallahassee, Florida 32399-2100

(12) REPORTS

a. Consistent with 2 C.F.R. §200.328, the Sub-Recipient shall provide the Division with quarterly reports and a close-out report. These reports shall include the current status and progress by the Sub-Recipient and all subcontractors in completing the work described in the Scope of Work and the expenditure of funds under this Agreement, in addition to any other information requested by the Division.

b. Quarterly reports are due to the Division no later than fifteen (15) days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are March 31, June 30, September 30, and December 31.

c. The close-out report is due sixty (60) days after termination of this Agreement or sixty (60) days after completion of the activities contained in this Agreement, whichever first occurs.

d. If all required reports and copies are not sent to the Division or are not completed in a manner acceptable to the Division, then the Division may withhold further payments until they are completed or may take other action as stated in Paragraph (16) REMEDIES. "Acceptable to the Division" means that the work product was completed in accordance with the Budget and Scope of Work.

e. The Sub-Recipient shall provide additional program updates or information that may be required by the Division.

f. The Sub-Recipient shall provide additional reports and information identified in Attachment F.

(13) MONITORING

a. The Sub-Recipient shall monitor its performance under this Agreement, as well as that of its subcontractors and/or consultants who are paid from funds provided under this Agreement, to ensure that time schedules are being met, the Schedule of Deliverables and Scope of Work are being accomplished within the specified time periods, and other performance goals are being achieved. A review shall be done for each function or activity in Attachment A to this Agreement and reported in the quarterly report.

b. In addition to reviews of audits, monitoring procedures may include, but not be limited to, on-site visits by Division staff, limited scope audits, and/or other procedures. The Sub-Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Division. In the event that the Division determines that a limited scope audit of the Sub-Recipient is appropriate, the Sub-Recipient agrees to comply with any additional instructions provided by the Division to the Sub-Recipient regarding such audit. The Sub-Recipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Florida Chief Financial Officer or Auditor General. In addition, the Division will monitor the performance and financial management by the Sub-Recipient throughout the contract term to ensure timely completion of all tasks.

(14) LIABILITY

a. Unless Sub-Recipient is a State agency or subdivision, as defined in section 768.28(2), Florida Statutes, the Sub-Recipient is solely responsible to parties it deals with in carrying out the terms of this Agreement and, as authorized by section 768.28(19), Florida Statutes, Sub-Recipient shall hold the Division harmless against all claims of whatever nature by third parties arising from the work performance under this Agreement. For purposes of this Agreement, Sub-Recipient agrees that it is not an employee or agent of the Division, but is an independent contractor.

b. As required by section 768.28(19), Florida Statutes, any Sub-Recipient which is a state agency or subdivision, as defined in section 768.28(2), Florida Statutes, agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against the

Division, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any Sub-Recipient to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

(15) DEFAULT

If any of the following events occur ("Events of Default"), all obligations on the part of the Division to make further payment of funds shall terminate and the Division has the option to exercise any of its remedies set forth in Paragraph (16); however, the Division may make payments or partial payments after any Events of Default without waiving the right to exercise such remedies, and without becoming liable to make any further payment if:

a. Any warranty or representation made by the Sub-Recipient in this Agreement or any previous agreement with the Division is or becomes false or misleading in any respect, or if the Sub-Recipient fails to keep or perform any of the obligations, terms or covenants in this Agreement or any previous agreement with the Division and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;

b. Material adverse changes occur in the financial condition of the Sub-Recipient at any time during the term of this Agreement, and the Sub-Recipient fails to cure this adverse change within thirty (30) days from the date written notice is sent by the Division;

c. Any reports required by this Agreement have not been submitted to the Division or have been submitted with incorrect, incomplete or insufficient information; or,

d. The Sub-Recipient has failed to perform and complete on time any of its obligations under this Agreement.

(16) REMEDIES

If an Event of Default occurs, then the Division shall, after thirty (30) calendar days written notice to the Sub-Recipient and upon the Sub-Recipient's failure to cure within those thirty (30) days, exercise any one or more of the following remedies, either concurrently or consecutively:

a. Terminate this Agreement, provided that the Sub-Recipient is given at least thirty (30) days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in paragraph (3) herein;

b. Begin an appropriate legal or equitable action to enforce performance of this Agreement;

c. Withhold or suspend payment of all or any part of a request for payment;

d. Require that the Sub-Recipient refund to the Division any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.

e. Exercise any corrective or remedial actions, to include but not be limited to:

i. Request additional information from the Sub-Recipient to determine the reasons for or the extent of non-compliance or lack of performance,

ii. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected,

iii. Advise the Sub-Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or

iv. Require the Sub-Recipient to reimburse the Division for the amount of costs incurred for any items determined to be ineligible;

f. Exercise any other rights or remedies which may be available under law.

Pursuing any of the above remedies will not stop the Division from pursuing any other remedies in this Agreement or provided at law or in equity. If the Division waives any right or remedy in this Agreement or fails to insist on strict performance by the Sub-Recipient, it will not affect, extend or waive any other right or remedy of the Division, or affect the later exercise of the same right or remedy by the Division for any other default by the Sub-Recipient.

(17) TERMINATION

a. The Division may terminate this Agreement for cause after thirty (30) days written notice. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, failure to perform on time, and refusal by the Sub-Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under chapter 119, Florida Statutes, as amended.

b. The Division may terminate this Agreement for convenience or when it determines, in its sole discretion that continuing the Agreement would not produce beneficial results in line with the further expenditure of funds, by providing the Sub-Recipient with thirty (30) calendar day's prior written notice.

c. The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of the Agreement.

d. In the event that this Agreement is terminated, the Sub-Recipient will not incur new obligations for the terminated portion of the Agreement after the Sub-Recipient has received the notification of termination. The Sub-Recipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. The Sub-Recipient shall not be relieved of liability to the Division because of any breach of Agreement by the Sub-Recipient. The

Division may, to the extent authorized by law, withhold payments to the Sub-Recipient for the purpose of set-off until the exact amount of damages due the Division from the Sub-Recipient is determined.

(18) PROCUREMENT

a. The Sub-Recipient shall ensure that any procurement involving funds authorized by the Agreement complies with all applicable federal and state laws and regulations, to include 2 C.F.R. §§200.318 through 200.327 as well as Appendix II to 2 C.F.R. Part 200 (entitled “Contract Provisions for Non-Federal Entity Contracts Under Federal Awards”).

b. As required by 2 C.F.R. §200.318(i), the Sub-Recipient shall “maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.”

c. As required by 2 C.F.R. §200.318(b), the Sub-Recipient shall “maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.” In order to demonstrate compliance with this requirement, the Sub-Recipient shall document, in its quarterly report to the Division, the progress of any and all subcontractors performing work under this Agreement.

d. The Sub-Recipient agrees to include in the subcontract that (i) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Division and Sub-Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

e. As required by 2 C.F.R. §200.318(c)(1), the Sub-Recipient shall “maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.”

f. As required by 2 C.F.R. §200.319(a), the Sub-Recipient shall conduct any procurement under this agreement “in a manner providing full and open competition.” Accordingly, the Sub-Recipient shall not:

i. Place unreasonable requirements on firms in order for them to qualify to do business;

ii. Require unnecessary experience or excessive bonding;

iii. Use noncompetitive pricing practices between firms or between affiliated companies;

iv. Execute noncompetitive contracts to consultants that are on retainer contracts;

v. Authorize, condone, or ignore organizational conflicts of interest;

vi. Specify only a brand name product without allowing vendors to offer an equivalent;

vii. Specify a brand name product instead of describing the performance, specifications, or other relevant requirements that pertain to the commodity or service solicited by the procurement;

viii. Engage in any arbitrary action during the procurement process; or,

ix. Allow a vendor to bid on a contract if that bidder was involved with developing or drafting the specifications, requirements, statement of work, invitation to bid, or request for proposals.

g. "Except in those cases where applicable Federal statutes expressly mandate or encourage" otherwise, the Sub-Recipient, as required by 2 C.F.R. §200.319(c), shall not use a geographic preference when procuring commodities or services under this Agreement.

h. The Sub-Recipient shall conduct any procurement involving invitations to bid (i.e. sealed bids) in accordance with 2 C.F.R. §200.320(d) as well as section 287.057(1)(a), Florida Statutes.

i. The Sub-Recipient shall conduct any procurement involving requests for proposals (i.e. competitive proposals) in accordance with 2 C.F.R. §200.320(2) as well as section 287.057(1)(b), Florida Statutes.

j. For each subcontract, the Sub-Recipient shall provide a written statement to the Division as to whether that subcontractor is a minority business enterprise, as defined in section 288.703, Florida Statutes. Additionally, the Sub-Recipient shall comply with the requirements of 2 C.F.R. §200.321 ("Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms").

k. If the Sub-Recipient chooses to subcontract any of the work required under this Agreement, then the Sub-Recipient shall review its competitive solicitation and subsequent contract to be awarded for compliance with the procurement standards in 2 C.F.R. §§200.318 through 200.327 and required contract provisions in Appendix II to 2 C.F.R. Part 200. If the Sub-Recipient publishes a competitive solicitation or executes a contract that is not in compliance with the Federal procurement standards in 2 C.F.R. §§200.318 through 200.327 or the requirements of Appendix II to 2 C.F.R. Part 200, then the Sub-Recipient is on notice that the Division may:

i. Terminate this Agreement in accordance with the provisions outlined in paragraph (17) above; or,

ii. Refuse to reimburse the Sub-Recipient for any costs associated with that solicitation.

l. FEMA has developed helpful resources for subgrant recipients related to compliance with the Federal procurement standards in 2 C.F.R. §§200.318 through 200.327 and required contract

provisions in Appendix II to 2 C.F.R. Part 200. These resources are generally available at https://www.fema.gov/procurement-disaster-assistance-team.

(19) ATTACHMENTS

a. All attachments to this Agreement are incorporated as if set out fully.

b. In the event of any inconsistencies or conflict between the language of this Agreement and the attachments, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

c. This Agreement has the following attachments:

i. Exhibit 1 - Funding Sources
ii. Attachment A – Budget and Scope of Work
iii. Attachment B – Program Statutes and Regulations
iv. Attachment C – Statement of Assurances
v. Attachment D – Request for Advance or Reimbursement
vi. Attachment E – Justification of Advance Payment
vii. Attachment F – Quarterly Report Form
viii. Attachment G – Warranties and Representations
ix. Attachment H – Certification Regarding Debarment
x. Attachment I – Federal Funding Accountability and Transparency Act
xi. Attachment J – Mandatory Contract Provisions
xii. Attachment K – Certification Regarding Lobbying
xiii. Attachment L – Florida Accountability Contract Tracking System
xiv. Attachment M – Foreign Country of Concern Affidavit

(20) PAYMENTS

a. Any advance payment under this Agreement is subject to 2 C.F.R. §200.305 and, as applicable, section 216.181(16), Florida Statutes. All advances are required to be held in an interest-bearing account. If an advance payment is requested, the budget data on which the request is based and a justification statement shall be included in this Agreement as Attachment E. Attachment E will specify the amount of advance payment needed and provide an explanation of the necessity for and proposed use of these funds. No advance shall be accepted for processing if a reimbursement has been paid prior to the submittal of a request for advanced payment. After the initial advance, if any, payment shall be made on a reimbursement basis as needed.

b. Invoices shall be submitted at least quarterly and shall include the supporting documentation for all costs of the project or services. The final invoice shall be submitted within sixty (60) days after the expiration date of the agreement. An explanation of any circumstances prohibiting the submittal of quarterly invoices shall be submitted to the Division grant manager as part of the Sub-Recipient's quarterly reporting as referenced in Paragraph (12) of this Agreement.

c. If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the federal Office of Management and Budgeting, the State Chief Financial Officer or under subparagraph (9)b. of this Agreement, all obligations on the part of the Division to make any further payment of funds shall terminate, and the Sub-Recipient shall submit its closeout report within thirty (30) days of receiving notice from the Division.

(21) REPAYMENTS

a. All refunds or repayments due to the Division under this Agreement are to be made payable to the order of "Division of Emergency Management", and mailed directly to the following address:

Division of Emergency Management
Cashier
2489 Shumard Oak Boulevard
Tallahassee FL 32399-2100

b. In accordance with section 215.34(2), Florida Statutes, if a check or other draft is returned to the Division for collection, Sub-Recipient shall pay the Division a service fee of $15.00 or 5% of the face amount of the returned check or draft, whichever is greater.

(22) MANDATED CONDITIONS

a. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Sub-Recipient in this Agreement, in any later submission or response to a Division request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials are incorporated by reference. The inaccuracy of the submissions or any material changes shall, at the option of the Division and with thirty (30) days written notice to the Sub-Recipient, cause the termination of this Agreement and the release of the Division from all its obligations to the Sub-Recipient.

b. This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then the provision shall be null and void to the extent of the conflict, and shall be severable, but shall not invalidate any other provision of this Agreement.

c. Any power of approval or disapproval granted to the Division under the terms of this Agreement shall survive the term of this Agreement.

d. The Sub-Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.

e. Those who have been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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 a public entity, and may not transact business with any public entity in excess of $25,000.00 for a period of 36 months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

f. Any Sub-Recipient which is not a local government or state agency, and which receives funds under this Agreement from the federal government, certifies, to the best of its knowledge and belief, that it and its principals or affiliates:

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded or disqualified from covered transactions by a federal department or agency;

ii. Have not, within a five-year period preceding this proposal been convicted of or had a civil judgment rendered against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

iii. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph (22) f. ii. of this certification; and,

iv. Have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

g. **In addition, the Sub-Recipient shall send to the Division (by email) the completed "Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion" (Attachment H) for each intended subcontractor which Sub-Recipient plans to fund under this Agreement. The form must be received by the Division before the Sub-Recipient enters into a contract with any subcontractor.**

h. The Division reserves the right to unilaterally cancel this Agreement if the Sub-Recipient refuses to allow public access to all documents, papers, letters or other material subject to the provisions of chapter 119, Florida Statutes, which the Sub-Recipient created or received under this Agreement.

i. If the Sub-Recipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to the Division or be applied against the Division's obligation to pay the contract amount.

j. The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Division shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Sub-Recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Division.

k. Section 287.05805, Florida Statutes, requires that any state funds provided for the purchase of or improvements to real property are contingent upon the contractor or political subdivision granting to the state a security interest in the property at least to the amount of state funds provided for at least 5 years from the date of purchase or the completion of the improvements or as further required by law.

l. The Division may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), Florida Statutes, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

m. If applicable, pursuant to Section 255.0993, Florida Statutes, the Sub-Recipient shall ensure that any iron or steel product, as defined in Section 255.0993(1)(b), Florida Statutes, that is permanently incorporated in the deliverable(s) resulting from this project, must be produced in the United States.

(23) LOBBYING PROHIBITION

a. 2 C.F.R. §200.450 prohibits reimbursement for costs associated with certain lobbying activities.

b. Section 216.347, Florida Statutes, prohibits "any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency."

c. No funds or other resources received from the Division under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

d. The Sub-Recipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:

i. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Sub-Recipient, to any person for influencing or attempting to influence an officer or

employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Sub-Recipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities."

iii. The Sub-Recipient shall require that this certification be included in the award documents for all subawards (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Sub-Recipients shall certify and disclose.

iv. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(24) COPYRIGHT, PATENT AND TRADEMARK

EXCEPT AS PROVIDED BELOW, ANY AND ALL PATENT RIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY RESERVED TO THE STATE OF FLORIDA; AND, ANY AND ALL COPYRIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY TRANSFERRED BY THE SUB-RECIPIENT TO THE STATE OF FLORIDA.

a. If the Sub-Recipient has a pre-existing patent or copyright, the Sub-Recipient shall retain all rights and entitlements to that pre-existing patent or copyright unless the Agreement provides otherwise.

b. If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with it, the Sub-Recipient shall refer the discovery or invention to the Division for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films, or other copyrightable material are produced, the Sub-Recipient shall notify the Division. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Sub-Recipient to the State of Florida.

c. Within thirty (30) days of execution of this Agreement, the Sub-Recipient shall disclose all intellectual properties relating to the performance of this Agreement which he or she knows or should know could give rise to a patent or copyright. The Sub-Recipient shall retain all rights and entitlements to any pre-existing intellectual property which is disclosed. Failure to disclose will indicate that no such property exists. The Division shall then, under Paragraph (24) b., have the right to all patents and copyrights which accrue during performance of the Agreement.

d. If the Sub-Recipient qualifies as a state university under Florida law, then, pursuant to section 1004.23, Florida Statutes, any invention conceived exclusively by the employees of the Sub-Recipient shall become the sole property of the Sub-Recipient. In the case of joint inventions, that is inventions made jointly by one or more employees of both parties hereto, each party shall have an equal, undivided interest in and to such joint inventions. The Division shall retain a perpetual, irrevocable, fully-paid, nonexclusive license, for its use and the use of its contractors of any resulting patented, copyrighted or trademarked work products, developed solely by the Sub-Recipient, under this Agreement, for Florida government purposes.

(25) LEGAL AUTHORIZATION

The Sub-Recipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The Sub-Recipient also certifies that the undersigned person has the authority to legally execute and bind Sub-Recipient to the terms of this Agreement.

(26) EQUAL OPPORTUNITY AND MERIT-BASED SELECTION

a. In accordance with Executive Order 14173, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," the Subrecipient hereby agrees that all procurement and employment actions funded in whole or in part with federal funds shall be identity-neutral and merit-based.

i. The Subrecipient and its contractors shall not discriminate against any employee, applicant for employment, or bidder because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

ii. The Subrecipient certifies that no contract award or employment decision shall be based on a demographic preference, quota, or "workforce balancing" requirement.

iii. All contract awards must be based solely on technical merit, cost-effectiveness, and the bidder's demonstrated ability to perform the work.

b. The Subrecipient acknowledges that compliance with this Section (26) is **material** to the federal government's decision to provide and reimburse funds. The Subrecipient further agrees that:

i. Failure to adhere to merit-based selection standards while certifying compliance through the submission of reimbursement requests may subject the Subrecipient to civil and/or criminal penalties under the False Claims Act (31 U.S.C. §§ 3729–3733).

ii. The Subrecipient shall include the provisions of this Section (26) in every subcontract or purchase order so that such provisions shall be binding upon each subcontractor or vendor.

iii. In the event of the Subrecipient's noncompliance with the merit-based provisions of this clause, FDEM may cancel, terminate, or suspend this Agreement in whole or in part and refer the matter to the Department of Justice for appropriate legal proceedings.

(27) COPELAND ANTI-KICKBACK ACT

The Sub-Recipient hereby agrees that, unless exempt under Federal law, it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, the following clause:

i. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

ii. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

iii. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

(28) CONTRACT WORK HOURS AND SAFETY STANDARDS

If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds $100,000 and involves the employment of mechanics or laborers, then any such contract must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated

at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

(29) CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract that exceeds $150,000, then any such contract must include the following provision:

> Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387), and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

(30) SUSPENSION AND DEBARMENT

If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following provisions:

> i. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
>
> ii. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
>
> iii. This certification is a material representation of fact relied upon by the Division. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Division, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
>
> iv. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

(31) BYRD ANTI-LOBBYING AMENDMENT

If the Sub-Recipient, with the funds authorized by this Agreement, enters into a contract, then any such contract must include the following clause:

> Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will

not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

If this subgrant agreement amount is $100,000 or more, the Sub-Recipient, and subcontractors as applicable, shall sign Attachment K – Certification Regarding Lobbying.

(32) CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

a. If the Sub-Recipient, with the funds authorized by this Agreement, seeks to procure goods or services, then, in accordance with 2 C.F.R. §200.321, the Sub-Recipient shall take the following affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used whenever possible:

i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs i. through v. of this subparagraph.

b. The requirement outlined in subparagraph a. above, sometimes referred to as "socioeconomic contracting," does not impose an obligation to set aside either the solicitation or award of a contract to these types of firms. Rather, the requirement only imposes an obligation to carry out and document the six affirmative steps identified above.

c. The "socioeconomic contracting" requirement outlines the affirmative steps that the Sub-Recipient must take; the requirements do not preclude the Sub-Recipient from undertaking additional steps to involve small and minority businesses and women's business enterprises.

d. The requirement to divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises, does not authorize the Sub-Recipient to break a single project down into smaller components in order to circumvent the micro-purchase or small purchase thresholds so as to utilize streamlined acquisition procedures (e.g. "project splitting").

(33) ASSURANCES

The Sub-Recipient shall comply with any Statement of Assurances incorporated as Attachment C.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

SUB-RECIPIENT: TOWN OF FORT MYERS BEACH

By: _____

Name and Title: _____

Date: _____

FEID#: _____

STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT

By: _____

Name and Title: Kevin Guthrie, Director

Date:_____

EXHIBIT – 1

THE FOLLOWING FEDERAL RESOURCES ARE AWARDED TO THE SUB-RECIPIENT UNDER THIS AGREEMENT:

Federal Program
Federal agency: **Federal Emergency Management Agency: Hazard Mitigation Grant**
Catalog of Federal Domestic Assistance title and number: **97.039**
Award amount: **$5,688,229.25**

THE FOLLOWING COMPLIANCE REQUIREMENTS APPLY TO THE FEDERAL RESOURCES AWARDED UNDER THIS AGREEMENT:

- 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- Sections 1361(A) of the National Flood Insurance Act of 1968, 42 U.S.C. 4104c, as amended by the National Flood Insurance Reform Act of 1994, Public Law 103-325 and the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264
- 31 C.F.R. Part 205 Rules and Procedures for Funds Transfers

Federal Program:

1. Sub-Recipient is to use funding to perform the following eligible activities:
   - Elevation of flood prone structures
2. Sub-Recipient is subject to all administrative and financial requirements as set forth in this Agreement, or will be in violation of the terms of the Agreement.

Attachment A

Budget and Scope of Work

STATEMENT OF PURPOSE:

The purpose of this Scope of Work is to elevate twenty-five (25) single-family residences in Fort Myers Beach, Lee County, Florida, funded through the Hazard Mitigation Grant Program (HMGP) **DR-4673-312-R**, as approved by the Florida Division of Emergency Management (Division) and the Federal Emergency Management Agency (FEMA).

The Sub-Recipient, Town of Fort Myers Beach, agrees to administer and complete the project per the application submitted by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall complete the work in accordance with all applicable Federal, State and Local Laws, Regulations and Codes.

PROJECT OVERVIEW:

As a Hazard Mitigation Grant Program project, the Sub-Recipient proposes to provide flood protection to twenty-five (25) single-family residences located in Fort Myers Beach, Florida 33931.

The proposal is to elevate the existing residential structures, listed in the table below, to a minimum of two feet above the Base Flood Elevation (BFE). These properties are located within the Special Flood Hazard Area (SFHA) and are at risk of recurring structural flooding.

The scope of work of the proposed project shall involve building and site preparation, along with the disconnection of utilities at each property. The existing structures shall be raised on an open foundation and continuous wall foundation per the engineering design to the proposed design elevation. All utilities shall be reconnected, and service equipment shall be elevated to the required height. Appropriate means of ingress and egress shall be constructed to access the elevated living spaces at each property. The proposed project intends to reduce or eliminate future flood damage to these low-lying properties.

The foundation system for the properties located at 107 Albatross Street, 1920 Bayview Drive, 7831 Estero Boulevard, 111 Albatross Street, 8069 Estero Boulevard, and 274 Primo Drive, in Fort Myers Beach, Florida 33931, shall be designed to account for wave action, debris impact, erosion and local scour per the Florida Building Code requirements for Coastal VE Zones as delimited by the Limit of Moderate Wave Action on the Flood Insurance Rate Map. Foundation walls shall automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Due to the medical homeowner's condition, a lift platform shall be installed on properties located at 180 Ibis Street, 1920 Bayview Drive, 7831 Estero Boulevard, and 133 Albatross Street, in Fort Myers Beach, Florida, 33931.

The habitable living areas of the original structure(s) shall be elevated, and the non-habitable areas (if any) shall be converted to storage or parking. The project shall be designed and constructed in compliance with the Florida Building Code, ASCE 24-14 effective at the time of permitting, the applicable Federal Flood Risk Management Standards (FFRMS), NFIP standards in 44 CFR, Part 60 and/or local floodplain ordinances or any other applicable local regulations. A final Elevation Certificate shall be completed for closeout to certify the structure(s) was elevated to the required height.

Elevation projects must complete an inspection prior to starting any construction, conducted by a qualified professional to demonstrate the proposed structures are structurally sound and capable of being elevated safely. A copy of the inspection report shall be provided to the Florida Division of Emergency Management within 12-months of the FEMA award date.

The project shall provide protection against a 100-year storm event. Activities shall be completed in strict compliance with Federal, State and Local applicable Rules and Regulations.

Project Locations:

ID#	Location	Coordinates
1)	160 Coconut Drive, Fort Myers Beach, Florida 33931	(26.440388, -81.922887)
2)	107 Albatross Street, Fort Myers Beach, Florida 33931	(26.420791, -81.901833)
3)	4810 Coquina Road, Fort Myers Beach, Florida 33931	(26.437080, -81.919417)
4)	180 Ibis Street, Fort Myers Beach, Florida 33931	(26.422052, -81.901086)
5)	1920 Bayview Drive, Fort Myers Beach, Florida 33931	(26.450849, -81.947458)
6)	7831 Estero Boulevard, Fort Myers Beach, Florida 33931	(26.406623, -81.895272)
7)	341 Jefferson Court, Fort Myers Beach, Florida 33931	(26.445823, -81.929214)
8)	150 Mandalay Road, Fort Myers Beach, Florida 33931	(26.441285, -81.925132)
9)	400 Randy Lane, Fort Myers Beach, Florida 33931	(26.435324, -81.913606)
10)	133 Albatross Street, Fort Myers Beach, Florida 33931	(26.421490, -81.900690)
11)	203 - 205 Fairweather Lane, Fort Myers Beach, Florida 33931	(26.450791, -81.945076)
12)	175 - 177 Tropical Shores Way, Fort Myers Beach, Florida 33931	(26.451924, -81.942429)
13)	163 Miramar Street, Fort Myers Beach, Florida 33931	(26.452155, -81.948686)
14)	5465 Avenida Pescadora, Fort Myers Beach, Florida 33931	(26.433652, -81.913317)
15)	185 Ibis Street, Fort Myers Beach, Florida 33931	(26.422405, -81.901423)
16)	111 Albatross Street, Fort Myers Beach, Florida 33931	(26.421140, -81.901697)
17)	331 Randy Lane, Fort Myers Beach, Florida 33931	(26.435894, -81.914984)
18)	156 Ibis Street, Fort Myers Beach, Florida 33931	(26.421887, -81.901639)
19)	8069 Estero Boulevard, Fort Myers Beach, Florida 33931	(26.405046, -81.891209)
20)	274 Primo Drive, Fort Myers Beach, Florida 33931	(26.456020, -81.952467)
21)	435 Donora Boulevard, Fort Myers Beach, Florida 33931	(26.448034, -81.930709)
22)	123 Falkirk Street, Fort Myers Beach, Florida 33931	(26.429794, -81.909853)
23)	249 Albatross Street, Fort Myers Beach, Florida 33931	(26.422361, -81.899554)
24)	206 Hibiscus Drive, Fort Myers Beach, Florida 33931	(26.442348, -81.924847)
25)	200 Ibis Street, Fort Myers Beach, Florida 33931	(26.422029, -81.900949)

TASKS & DELIVERABLES:

A) Tasks:

1) The Sub-Recipient shall procure the services of a qualified and licensed Florida contractor and execute a contract with the selected bidder to complete the scope of work as approved by the Division and FEMA. The Sub-Recipient shall select the qualified, licensed Florida contractor in accordance with the Sub-Recipient's procurement policy as well as all federal and state laws and regulations. All procurement activities shall contain sufficient source documentation and be in accordance with all applicable regulations.

   The Sub-Recipient shall be responsible for furnishing or contracting all labor, materials, equipment, tools, transportation and supervision and for performing all work per conceptual designs and construction plans presented to the Division by the Sub-Recipient and subsequently approved by the Division and FEMA.

   The Sub-Recipient and contractor shall be responsible for maintaining a safe and secure worksite for the duration of the work. The contractor shall maintain all work staging areas in a neat and presentable condition.

   The Sub-Recipient shall ensure that no contractors or subcontractors are debarred or suspended from participating in federally funded projects.

   The selected contractor shall have a current and valid occupational license/business tax receipt issued for the type of services being performed.

The Sub-Recipient shall provide documentation demonstrating the results of the procurement process. This shall include a rationale for the method of procurement and selection of contract type, contractor selection and/or rejection and bid tabulation and listing, and the basis of contract price.

The Sub-Recipient shall provide an executed "Debarment, Suspension, Ineligibility, Voluntary Exclusion Form" for each contractor and/or subcontractor performing services under this agreement.

Executed contracts with contractors and/or subcontractors shall be provided to the Division by the Sub-Recipient.

The Sub-Recipient shall provide copies of professional licenses for contractors selected to perform services. The Sub-Recipient shall provide a copy of a current and valid occupational license or business tax receipt issued for the type of services to be performed by the selected contractor.

2) The Sub-Recipient shall monitor and manage the installation to provide flood protection.

The project shall be implemented in accordance with conceptual designs and construction plans previously presented to the Division by the Sub-Recipient and subsequently approved by the Division and FEMA. The Sub-Recipient shall ensure that all applicable state, local and federal laws and regulations are followed and documented, as appropriate.

The project consists of the general construction and furnishing of all materials, equipment, labor and fees to minimize recurring flooding and reduce repetitive flood loss to structures and roadways.

The Sub-Recipient shall fully perform the approved project, as described in the submitted documents, in accordance with the approved scope of work, budget line item, allocation of funds and applicable terms and conditions indicated herein. The Sub-Recipient shall not deviate from the approved project terms and conditions.

Construction activities shall be completed by a qualified and licensed Florida contractor. All construction activities shall be monitored by the professional of record. The Sub-Recipient shall complete the project in accordance with all required permits. All work shall be completed in accordance with applicable codes and standards.

Upon completion of the work, the Sub-Recipient shall schedule and participate in a final inspection of the completed project by the local municipal or county official, or other approving official, as applicable. The official shall inspect and certify that all installation was in accordance with the manufacturer's specifications. Any deficiencies found during this final inspection shall be corrected by the Sub-Recipient prior to Sub-Recipient's submittal of the final inspection request to the Division.

Upon completion of Task 2, the Sub-Recipient shall submit the following documents with sufficient supporting documentation, and provide a summary of all contract scope of work and scope of work changes, if any. Additional documentation for closeout shall include:

a) Local Building Official Building Permit.

b) A Copy of the Certificate of Occupancy or copy of the Local Building Official Inspection Report and Final Approval, as applicable.

    1. Certifying that the structure is code-compliant.

c) A Copy of the Elevation Certificate before mitigation, if available.

d) A Copy of the Final Elevation Certificate (FEMA Form ff-206-fy-22-152), after mitigation – ensuring the structure has been elevated to the proper elevation.

e) All Product Specification / Data Sheets (technical standards) satisfying protective requirements on all products utilized.

f) Signed notices from the affected property owner in the Special Flood Hazard Area (SFHA) that the Sub-Recipient shall record a Deed Notice applicable to their property, as described in section (h), below, and that they shall maintain flood insurance.

g) Verification that the property located within a SFHA is covered by an NFIP flood insurance policy to the amount at least equal to the project cost or to the maximum limit of coverage made available with respect to the particular property, whichever is less.

h) Confirmation that the Sub-Recipient (or property owner) has legally recorded with the county or appropriate jurisdiction's land records a notice that includes the name of the current property owner (including book/page reference to record of current title, if readily available), a legal description of the property, and the following notice of flood insurance requirements:

"This property has received Federal hazard mitigation assistance. Federal law requires that flood insurance coverage on this property must be maintained during the life of the property regardless of transfer of ownership of such property. Pursuant to 42 U.S.C. 5154a, notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property. The property owner is also required to maintain this property in accordance with the floodplain management criteria of 44 CFR Section 60.3 and any city/county ordinance."

i) Letter verifying if intact archaeological features or deposits or human remains were discovered during project activities and, if so, how they were handled in accordance with Florida Statutes, Section 872.05.

j) Letter verifying if prehistoric or historic artifacts were encountered at any time within the project site area and, if so, how they were handled in accordance with Florida Statutes, Section 872.05.

k) Copy of floodplain permit and verification of compliance; if no permit was needed, a letter stating "No Permit Required" from the local floodplain administrator obtained prior to project commencement.

l) Proof of compliance with Project Conditions and Requirements contained herein.

3) During the course of this agreement, the Sub-Recipient shall submit requests for reimbursement. Adequate and complete source documentation shall be submitted to support all costs (federal share and local share) related to the project. In some cases, not all project activities may be fully complete prior to requesting reimbursement of costs incurred in completion of this scope of work; however, a partial reimbursement may be requested.

The Sub-Recipient shall submit an Affidavit signed by the Sub-Recipient's project personnel with each reimbursement request attesting to the completion of the work, that disbursements or payments were made in accordance with all agreement and regulatory conditions, and that reimbursement is due and has not been previously requested.

The Sub-Recipient shall maintain accurate time records. The Sub-Recipient shall ensure invoices are accurate and any contracted services were rendered within the terms and timelines of this agreement. All supporting documentation shall agree with the requested billing period. All costs submitted for reimbursement shall contain adequate source documentation which may include but not be limited to: cancelled checks, bank statements, Electronic Funds Transfer, paid bills and invoices, payrolls, time and attendance records, contract and subcontract award documents.

Construction Expense: The Sub-Recipient shall pre-audit bills, invoices, and/or charges submitted by the contractors and subcontractors and pay the contractors and subcontractors for approved bills,

invoices, and/or charges. Sub-Recipient shall ensure that all contractor/subcontractor bills, invoices, and/or charges are legitimate and clearly identify the activities being performed and associated costs.

Sub-Recipient Management Costs (SRMC) expenditure must adhere to FEMA Policy #104-11-1 HMGP Management Costs (Interim) signed November 14, 2018. FEMA defines management costs as any: Indirect costs, Direct administrative costs, and other administrative expenses associated with a specific project. Administrative costs are expenses incurred by a Sub-Recipient in managing and administering the federal award to ensure that federal, state requirements are met including: solicitation, development, review, and processing of sub-applications; delivery of technical assistance; quarterly progress and fiscal reporting; project monitoring; technical monitoring; compliance activities associated with federal procurement requirements; documentation of quality of work verification for quarterly reports and closeout; payment of claims; closeout review and liquidation; and records retention.

Any activities that are directly related to a project are not eligible under management costs. For example, architectural, engineering, and design services are project costs and cannot be included under management costs. Similarly, construction management activities that manage, coordinate, and supervise the construction process from project scoping to project completion are project costs. These activities cannot be included under management costs.

Due to Strategic Funds Management (SFM), SRMC Interim Policy requires management costs to be obligated in increments sufficient to cover Sub-Recipient needs, for no more than one year, unless contractual agreements require additional funding. FEMA has established a threshold where annual increments will be applied to larger awards allowing smaller awards to be fully obligated. Obligations will be handled by the size of the total subaward.

The Sub-Recipient shall pre-audit all SRMC source documentation – personnel, fringe benefits, travel, equipment, supplies, contractual, and indirect costs. A brief narrative is required to identify what the funds will be used for. Documentation shall be detailed and clearly describe each approved task performed, hours devoted to each task, and the hourly rate charged including enough information to calculate the hourly rates based on payroll records. Employee benefits and tasks shall be clearly shown on the Personnel Activity Form, and all Personnel or Contractual SRMC shall be invoiced separate from all other project costs.

Project Management Expenses (only applies to disasters prior to August 1, 2017, all others adhere to FEMA Policy #104-11-1 for SRMC): The Sub-Recipient shall pre-audit source documentation such as payroll records, project time sheets, attendance logs, etc. Documentation shall be detailed information describing tasks performed, hours devoted to each task, and the hourly rate charged for each hour including enough information to calculate the hourly rates based on payroll records. Employee benefits shall be clearly shown.

The Division shall review all submitted requests for reimbursement for basic accuracy of information. Further, the Division shall ensure that no unauthorized work was completed prior to the approved project start date by verifying vendor and contractor invoices. The Division shall verify that reported costs were incurred in the performance of eligible work, that the approved work was completed, and that the mitigation measures are in compliance with the approved scope of work prior to processing any requests for reimbursement.

Review and approval of any third-party in-kind services, if applicable, shall be conducted by the Division in coordination with the Sub-Recipient.

Quarterly reports shall be submitted by the Sub-Recipient and received by the Division at the times provided in this agreement prior to the processing of any reimbursement.

The Sub-Recipient shall submit to the Division requests for reimbursement of actual construction and managerial costs related to the project as identified in the project application, conceptual designs, and construction plans. The requests for reimbursement shall include:

a) Contractor, subcontractor, and/or vendor invoices which clearly display dates of services performed, description of services performed, location of services performed, cost of services performed, name of service provider and any other pertinent information;

b) Proof of payment from the Sub-Recipient to the contractor, subcontractor, and/or vendor for invoiced services;

c) Clear identification of amount of costs being requested for reimbursement as well as costs being applied against the local match amount.

The Sub-Recipient's final request for reimbursement shall include the final construction project cost. Supporting documentation shall show that all contractors and subcontractors have been paid.

B) Deliverables:

Mitigation Activities consist of elevation of twenty-five (25) single-family residences located in Fort Myers Beach, Florida, including building and site preparation, along with the disconnection and reconnection of utilities.

The habitable living areas of the original structure(s) shall be elevated, and the non-habitable areas (if any) shall be converted to storage or parking. The project shall be designed and constructed in compliance with the Florida Building Code, ASCE 24-14 effective at the time of permitting, the applicable Federal Flood Risk Management Standards (FFRMS), NFIP standards in 44 CFR, Part 60 and/or local floodplain ordinances or any other applicable local regulations. A final Elevation Certificate shall be completed for closeout to certify the structure(s) was elevated to the required height.

Elevation projects must complete an inspection prior to starting any construction, conducted by a qualified professional to demonstrate the proposed structures are structurally sound and capable of being elevated safely. A copy of the inspection report shall be provided to the Florida Division of Emergency Management within 12-months of the FEMA award date.

The project shall provide protection against a 100-year storm event. Activities shall be completed in strict compliance with Federal, State and Local applicable Rules and Regulations.

Provided the Sub-Recipient performs in accordance with the Scope of Work outlined in this Agreement, the Division shall reimburse the Sub-Recipient based on the percentage of overall project completion.

PROJECT CONDITIONS AND REQUIREMENTS:

C) Engineering:

1) The Sub-Recipient shall submit to the Division an official letter stating that the project is 100% complete and ready for the Division's Final Inspection of the project.

2) The Sub-Recipient shall provide a copy of the Notice of Commencement, and a copy of the Certificate of Occupancy or any local official Inspection Report and/or Final Approval, as applicable.

3) The Sub-Recipient shall provide a copy of the Elevation Certificate prepared before mitigation, if available.

4) The Sub-Recipient shall submit a copy of the Elevation Certificate prepared after mitigation, showing the Base Flood Elevation and the elevation of all components.

5) The Sub-Recipient shall submit all Product Specifications / Data Sheet(s) (technical standards) satisfying protect requirements on all products utilized.

6) All installations shall be done in strict compliance with the Florida Building Code or any local codes and ordinances. All materials shall be certified to exceed the wind and impact standards of the current local codes.

7) The Sub-Recipient shall follow all applicable State, Local and Federal Laws, Regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate Federal, State, and Local permits and clearances may jeopardize federal funding.

D) Environmental:

1) Sub-Recipient shall follow all applicable state, local and federal laws, regulations and requirements, and obtain (before starting project work) and comply with all required permits and approvals. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding.

2) Any change, addition or supplement to the approved Scope of Work that alters the project (including other work not funded by FEMA, but done substantially at the same time), regardless of the budget implications, shall require re-submission of the application to FEMA through the Division for National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) re-evaluation before starting project work.

3) The Sub-Recipient shall monitor ground-disturbing activities during construction, and if any potential archeological resources are discovered, shall immediately cease construction in that area and notify the Division and FEMA.

   If human remains or intact archaeological features or deposits (e.g., arrowheads, pottery, glass, metal, etc.) are uncovered, work in the vicinity of the discovery shall stop immediately and all reasonable measures to avoid or minimize harm to the finds shall be taken. The Sub-Recipient shall ensure that archaeological discoveries are secured in place, that access to the sensitive area is restricted, and that all reasonable measures are taken to avoid further disturbance of the discoveries.

   The Sub-Recipient's contractor shall provide immediate notice of such discoveries to the Sub-Recipient. The Sub-Recipient shall contact the Florida Division of Historic Resources and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA has completed consultation with SHPO, Tribes, and other consulting parties as necessary.

   In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately, and the proper authorities notified in accordance with ***Florida Statutes, Section 872.05***.

4) If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The Sub-Recipient shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850)-245-6333. Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately, and the proper authorities notified in accordance with Section 872.05, Florida Statutes.

5) The Sub-Recipient must obtain floodplain permit from the local floodplain administrator before work begins. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance shall be required at project closeout.

6) Construction vehicles and equipment used for this project shall be maintained in good working order to minimize pollutant emissions.

E) Programmatic:

1) A change in the scope of work *must* be approved by the Division and FEMA in advance regardless of the budget implications.

2) The Sub-Recipient must notify the Division as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower costs or earlier completion.

3) The Sub-Recipient must “obtain prior written approval for any budget revision which would result in a need for additional funds” [44 CFR 13(c)], from the Division and FEMA.

4) Project is approved with the condition that the enclosed list of deliverables shall be submitted, 30 days prior to the Period of Performance date, for review and approval by the Division, for submittal to FEMA for closeout.

5) Any extension of the Period of Performance shall be submitted to FEMA 60 days prior to the expiration date. Therefore, any request for a Period of Performance Extension shall be in writing and submitted, along with substantiation of new expiration date and a new schedule of work, to the Division a minimum of seventy (70) days prior to the expiration date, for Division processing to FEMA.

6) The Sub-Recipient must avoid duplication of benefits between the HMGP and any other form of assistance, as required by Section 312 of the Stafford Act, and further clarification in 44 CFR 206.191.

7) A copy of the executed subcontract agreement must be forwarded to the Division within 10 days of execution.

8) A copy of the recorded deed amendment for each property as required by HMA Guidance.

9) For structures located in the Special Flood Hazard Area (SFHA), the Sub-Recipient shall verify if the proposed project triggers a substantial improvement and confirm that the project will be in compliance with the current local floodplain management ordinance.

10) For structures that remain in the SFHA after implementation, flood insurance must be maintained for the life of the structure to an amount at least equal to the project cost or to the maximum limit of coverage made available with respect to the particular properties.

    Confirmation that the Sub-Recipient (or property owner) has legally recorded with the county or appropriate jurisdiction’s land records a notice that includes the name of the current property owner (including book/page reference to record of current title, if readily available), a legal description of the property, and the following notice of flood insurance requirements:

    "This property has received Federal hazard mitigation assistance. Federal law requires that flood insurance coverage on this property must be maintained during the life of the property regardless of transfer of ownership of such property. Pursuant to 42 U.S.C. 5154a, notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property. The property owner is also required to maintain this property in accordance with the floodplain management criteria of 44 CFR Section 60.3 and any city/county ordinance."

11) Prior to project commencement, the Sub-Recipient must identify the source and location of fill material and provide this information to the Division and FEMA. If the borrow pit is privately owned, or is located on previously undisturbed land, or if the fill is obtained by the horizontal expansion of a pre-existing borrow pit, FEMA consultation with the State Historic Preservation Officer shall be required. Failure to comply with this condition may jeopardize FEMA funding; verification of compliance shall be required prior to project commencement AND for project closeout.

12) The Sub-Recipient must obtain a floodplain permit from the local floodplain administrator before work begins. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance shall be required at project closeout.

13) A certificate of occupancy and the final Elevation Certificate (FEMA Form - Elevation Certificate -ff-206-fy-22-152) for each structure on the project to certify the structure is code compliant and was elevated to the required elevation.

14) A copy of the recorded deed for each property, including structure elevation project deed requirements for property maintenance and flood insurance requirements.

15) A signed Acknowledgement of Conditions for Properties Using FEMA Hazard Mitigation Assistance form for each structure.

16) A certification from a building official or licensed design professional verifying that the structure was designed and constructed to the minimum standard of the two most recently published editions of the International Codes, even in locations where no code has been adopted.

17) Front, rear and side photographs of the final structure(s), including the date of the photograph, property address, latitude/longitude to the nearest sixth decimal place and the source of the photograph.

18) Verification of flood insurance policy for each structure.

19) Closeout of structural elevation project, the Sub-Recipient shall provide:

    a) Updated property information for each location.

    b) A Certificate of Occupancy, certifying that each structure is code-compliant.

    c) A Final Elevation Certificate (FEMA Form FF-206-FY-22-152) for each structure to ensure the structure has been elevated to the proper elevation.

20) The Sub-Recipient must ensure that persons responsible for the management of this grant, including the designated Point of Contact (POC), staff, and consultants, attend the Division's Sub-Recipient Responsibility Review training at least once every thirty-six (36) months. Any change in the Sub-Recipient's Point of Contact (POC), or in any other person responsible for the management of this grant, shall require the newly designated individual to also fulfill this training requirement by attending the Division's Sub-Recipient Responsibility Review training at least once every thirty-six (36) months, or by having completed it within the last thirty-six (36) months.

21) Special Conditions required on implementation of project:

    a) **EO 11988 CONDITION:** The Sub-Recipient must obtain floodplain permit from the local floodplain administrator before work begins. Failure to comply with these conditions may jeopardize FEMA funding; verification of compliance shall be required at project closeout. **Source of condition:** Executive Order 11988 – Floodplains **Monitoring Required: No**

    b) **NHPA CONDITION:** If human remains or intact archaeological features or deposits (e.g., arrowheads, pottery, glass, metal, etc.) are uncovered, work in the vicinity of the discovery will stop immediately and all reasonable measures to avoid or minimize harm to the finds will be taken. The Sub-Recipient will ensure that archaeological discoveries are secured in place, that access to the sensitive area is restricted, and that all reasonable measures are taken to avoid further disturbance of the discoveries. The Sub-Recipient's contractor will provide immediate notice of such discoveries to the Sub-Recipient. The Sub-Recipient shall contact the Florida Division of Historic Resources and FEMA within 24 hours of the discovery. Work in the vicinity of the discovery may not resume until FEMA has completed consultation with SHPO, Tribes, and other consulting parties as necessary. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately, and the proper authorities notified in accordance with Florida Statutes, Section 872.05. **Source of condition:** National Historic Preservation Act (NHPA) **Monitoring Required: No**

    c) **NHPA CONDITION:** If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities

involving subsurface disturbance in the vicinity of the discovery. The Sub-Recipient shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850)-245-6333. Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately, and the proper authorities notified in accordance with Section 872.05, Florida Statutes. **Source of condition:** National Historic Preservation Act (NHPA) **Monitoring Required: No**

22) Per FEMA Hazard Mitigation Assistance Guidance Part VI, D.3.4 – Contingency funds are not automatically available for use. Prior to their release, contingency funds must be re-budgeted to another direct cost category and identified. Post-award changes to the budget require prior written approval from the Division (FDEM). The written request should demonstrate what unforeseen condition related to the project arose that required the use of contingency funds.

23) Sub-Recipient Management Costs (SRMC), implemented under the Disaster Relief and Recovery Act of 2018 (DRRA), amended Section 324 of the Stafford Act, and the Hazard Mitigation Grant Program Management Costs (Interim) FEMA Policy 104-11-1, provides 100% federal funding under HMGP to Sub-Recipients to efficiently manage the grant and complete activities in a timely manner.

   a) SRMC must conform to 2 CFR Part 200, Subpart E, applicable program regulations, and Hazard Mitigation Assistance (HMA) Guidance (2015), ensuring costs are reasonable, allowable, allocable and necessary to the overall project.

   b) Funding is for approved indirect costs, direct administrative costs, and administrative expenses associated with this specific project and shall have adequate documentation.

   c) SRMC cannot exceed 5% of the total project costs awarded.

   d) SRMC is 100% federally funded and will be reimbursed based on actual costs incurred for each individual Request for Reimbursement (RFR) submitted with the required documentation.

   e) SRMC shall be reconciled against actual costs on a quarterly basis and annual basis.

   f) If the Final Project Reconciliation results in a reduction of total project costs, any resulting SRMC overpayment shall be reimbursed back to the State for return to FEMA prior to FEMA Closeout.

This is FEMA project number **4673-312-R.** It is funded under HMGP, FEMA-4673-DR-FL and must adhere to all program guidelines established for the HMGP in accordance with the PAS Operational Agreement for Disaster 4673.

FEMA awarded this project on March 11, 2026, and the Period of Performance for this project shall end on **May 31, 2028**.

F) FINANCIAL CONSEQUENCES:

If the Sub-Recipient fails to comply with any term of the award, the Division shall take one or more of the following actions, as appropriate in the circumstances:

1) Temporarily withhold cash payments pending correction of the deficiency by the Sub-Recipient;

2) Disallow all or part of the cost of the activity or action not in compliance;

3) Wholly or partly suspend or terminate the current award for the Sub-Recipient's program;

4) Withhold further awards for the program; or

5) Take other remedies that may be legally available.

SCHEDULE OF WORK

State Contracting:	2	Months
Construction Plan/Technical Specifications:	3	Months
Bidding / Local Procurement:	2	Months
Permitting:	2	Months
Construction / Installation:	11	Months
Local Inspections / Compliance:	2	Months
State Final Inspection / Compliance:	2	Months
Closeout Compliance:	2	Months
Total Period of Performance:	**26**	**Months**

BUDGET

Line Item Budget*

	Project Cost	Federal Cost	Non-Federal Cost
Materials:	$1,988,412.00	$1,491,309.00	$497,103.00
Labor:	$5,062,822.00	$3,797,116.50	$1,265,705.50
Fees:	$504,650.00	$378,487.50	$126,162.50
Initial Agreement Amount:	**$7,555,884.00**	**$5,666,913.00**	**$1,888,971.00**
***Contingency Funds:	$377,794.00	$283,345.50	$94,448.50
Project Total:	**$7,933,678.00**	**$5,950,258.50**	**$1,983,419.50**
****SRMC**			
SRMC:	$0.00	$0.00	
SRMC-Pre-Award:	$21,316.25	$21,316.25	
SRMC Total:	**$21,316.25**	**$21,316.25**	

**Any line item amount in this Budget may be increased or decreased 10% or less, with the Division's approval, without an amendment to this Agreement being required, so long as the overall amount of the funds obligated under this Agreement is not increased.*

***** This project has an estimated $377,794.00 in contingency funds.** *Per FEMA Hazard Mitigation Assistance Guidance Part VI, D.3.4 – Contingency funds are not automatically available for use. Prior to their release, contingency funds must be re-budgeted to another direct cost category and identified. Post-award changes to the budget require prior written approval from the Division (FDEM). The written request should demonstrate what unforeseen condition related to the project arose that required the use of contingency funds.*

Project Management costs are included for this project in the amount of $0.00.

******* Sub-Recipient Management Costs (SRMC) are included for this project in the amount of $21,316.25.00 in Federal funding.*** *Per the Hazard Mitigation Grant Program Interim FEMA Policy 104-11-1, SRMC provides HMGP funding to Sub-Recipients to efficiently manage the grant and complete activities in a timely manner. SRMC must conform to 2 CFR Part 200, Subpart E, ensuring costs are reasonable, allowable, allocable and necessary to the overall project.*

SRMC cannot exceed 5% of the approved total project costs awarded and shall be reimbursed at 5% for each Request for Reimbursement (RFR) submitted with the required documentation.

If the Final Project Reconciliation results in a reduction of total project costs, any resulting SRMC overpayment shall be reimbursed back to the State for return to FEMA prior to FEMA Closeout.

*This project has a **SRMC Pre-Award,** approved by FEMA in the amount of $21,316.25, with a start date of **November 2, 2023**.*

ID#	Address	Budget per address	Federal Share
1)	160 Coconut Drive, Fort Myers Beach, Florida 33931	$191,809.00	$143,856.75
2)	107 Albatross Street, Fort Myers Beach, Florida 33931	$305,624.00	$229,218.00
3)	4810 Coquina Road, Fort Myers Beach, Florida 33931	$222,380.00	$166,785.00
4)	180 Ibis Street, Fort Myers Beach, Florida 33931	$229,601.00	$172,200.75
5)	1920 Bayview Drive, Fort Myers Beach, Florida 33931	$642,912.00	$482,184.00
6)	7831 Estero Boulevard, Fort Myers Beach, Florida 33931	$301,544.00	$226,158.00
7)	341 Jefferson Court, Fort Myers Beach, Florida 33931	$307,160.00	$230,370.00
8)	150 Mandalay Road, Fort Myers Beach, Florida 33931	$194,990.00	$146,242.50
9)	400 Randy Lane, Fort Myers Beach, Florida 33931	$382,485.00	$286,863.75
10)	133 Albatross Street, Fort Myers Beach, Florida 33931	$288,605.00	$216,453.75
11)	203 - 205 Fairweather Lane, Fort Myers Beach, Florida 33931	$357,717.00	$268,287.75
12)	175 - 177 Tropical Shores Way, Fort Myers Beach, Florida 33931	$342,711.00	$257,033.25
13)	163 Miramar Street, Fort Myers Beach, Florida 33931	$194,664.00	$145,998.00
14)	5465 Avenida Pescadora, Fort Myers Beach, Florida 33931	$257,782.00	$193,336.50
15)	185 Ibis Street, Fort Myers Beach, Florida 33931	$302,780.00	$227,085.00
16)	111 Albatross Street, Fort Myers Beach, Florida 33931	$254,614.00	$190,960.50
17)	331 Randy Lane, Fort Myers Beach, Florida 33931	$336,873.00	$252,654.75
18)	156 Ibis Street, Fort Myers Beach, Florida 33931	$208,179.00	$156,134.25
19)	8069 Estero Boulevard, Fort Myers Beach, Florida 33931	$482,820.00	$362,115.00
20)	274 Primo Drive, Fort Myers Beach, Florida 33931	$342,388.00	$256,791.00
21)	435 Donora Boulevard, Fort Myers Beach, Florida 33931	$298,481.00	$223,860.75
22)	123 Falkirk Street, Fort Myers Beach, Florida 33931	$311,996.00	$233,997.00
23)	249 Albatross Street, Fort Myers Beach, Florida 33931	$261,623.00	$196,217.25
24)	206 Hibiscus Drive, Fort Myers Beach, Florida 33931	$224,150.00	$168,112.50
25)	200 Ibis Street, Fort Myers Beach, Florida 33931	$311,996.00	$233,997.00

Funding Summary Totals

Federal Share:	$5,950,258.50	(75.00%)
Non-Federal Share:	$1,983,419.50	(25.00%)
Total Project Cost:	**$7,933,678.00**	**(100.00%)**

SRMC (100% Federal)	$21,316.25

Attachment B

Program Statutes and Regulations

The parties to this Agreement and the Hazard Mitigation Grant Program (HMGP) are generally governed by the following statutes and regulations:

(1) The Robert T. Stafford Disaster Relief and Emergency Assistance Act;

(2) 44 C.F.R. 7, 9, 18, 25, and 206. Reference (Title 44, up to date as of August 18, 2023, and last amended January 9, 2023.), and any other applicable FEMA policy memoranda and guidance documents;

(3) State of Florida Administrative Plan for the Hazard Mitigation Grant Program;

(4) The applicable Hazard Mitigation Assistance Program and Policy Guide (HMA Guide);

(5) All applicable laws and regulations delineated in Attachment C of this Agreement.

In addition to the above statutes and regulations, the Sub-recipient must comply with the following:

The Sub-recipient shall fully perform the approved hazard mitigation project, as described in the Application and Attachment A (Budget and Scope of Work) attached to this Agreement, in accordance with approved scope of work indicated therein, the estimate of costs indicated therein, the allocation of funds indicated therein, and the terms and conditions of this Agreement. The Sub-recipient shall not deviate from the approved project and the terms and conditions of this Agreement. The Sub-recipient shall comply with any and all applicable codes and standards in performing work funded under this Agreement, and shall provide any appropriate maintenance and security for the project.

Any development permit issued by, or development activity undertaken by, the Sub-recipient and any land use permitted by or engaged in by the Sub-recipient, shall be consistent with the local comprehensive plan and land development regulations prepared and adopted pursuant to chapter 163, Part II, Florida Statutes. Funds shall be expended for, and development activities and land uses authorized for, only those uses which are permitted under the comprehensive plan and land development regulations. The Sub-recipient shall be responsible for ensuring that any development permit issued and any development activity or land use undertaken is, where applicable, also authorized by the Water Management District, the Florida Department of Environmental Protection, the Florida Department of Health, the Florida Game and Fish Commission, and any Federal, State, or local environmental or land use permitting authority, where required. The Sub-recipient agrees that any repair or construction shall be in accordance with applicable standards of safety, decency, and sanitation, and in conformity with applicable codes, specifications and standards.

The Sub-recipient will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the completed work conforms with the approved plans and specifications and will furnish progress reports and such other information to HMGP as may be required.

If the hazard mitigation project described in Attachment A includes an acquisition or relocation project, then the Sub-recipient shall ensure that, as a condition of funding under this Agreement, the owner of the affected real property shall record in the public records of the county where it is located the following covenants and restrictions, which shall run with and apply to any property acquired, accepted, or from which a structure will be removed pursuant to the project.

(1) The property will be dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices;

(2) No new structure will be erected on property other than:
   a. a public facility that is open on all sides and functionally related to a designed open space;
   b. a restroom; or

(3) A structure that the Director of the Federal Emergency Management Agency approves in writing before the commencement of the construction of the structure;

(4) After the date of the acquisition or relocation no application for disaster assistance for any purpose will be made to any Federal entity and no disaster assistance will be provided for the property by any Federal source; and

(5) If any of these covenants and restrictions is violated by the owner or by some third party with the knowledge of the owner, fee simple title to the Property described herein shall be conveyed to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida without further notice to the owner, its successors and assigns, and the owner, its successors and assigns shall forfeit all right, title and interest in and to the property.

HMGP Contract Manager will evaluate requests for cost overruns and submit to the regional Director written determination of cost overrun eligibility. Cost overruns shall meet Federal regulations set forth in 44 C.F.R. §206.438(b).

The National Environmental Policy Act (NEPA) stipulates that additions or amendments to a HMGP Sub-Recipient Scope of Work (SOW) shall be reviewed by all State and Federal agencies participating in the NEPA process.

As a reminder, the Sub-recipient must obtain prior approval from the State, before implementing changes to the approved project Scope of Work (SOW). Per the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments:

(1) For Construction projects, the grantee must “obtain prior written approval for any budget revision which result in a need for additional funds” (2 C.F.R. § 200.308);

(2) A change in the Scope of Work must be approved by FEMA in advance regardless of the budget implications; and

(3) The Sub-recipient must notify the State as soon as significant developments become known, such as delays or adverse conditions that might raise costs or delay completion, or favorable conditions allowing lower cost or earlier completion. Any extensions of the period of performance must be submitted to FEMA ninety (90) calendar days prior to the project expiration date. Reference the applicable Hazard Mitigation Assistance Program and Policy Guide (HMA Guide) Award Extensions guidance.

The Sub-recipient assures that it will comply with the following statutes and regulations to the extent applicable:

(1) 53 Federal Register 8034
(2) Federal Acquisition Regulations 31.2
(3) Section 1352, Title 31, US Code
(4) Chapter 473, Florida Statutes
(5) Chapter 215, Florida Statutes
(6) Section 768.28, Florida Statutes
(7) Chapter 119, Florida Statutes

(8) Section 216.181(6), Florida Statutes
(9) Cash Management Improvement Act of 1990
(10) American with Disabilities Act
(11) Section 112.061, Florida Statutes
(12) Immigration and Nationality Act
(13) Section 286.011, Florida Statutes
(14) 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
(15) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970
(16) Title I of the Omnibus Crime Control and Safe Streets Act of 1968
(17) Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act
(18) Omnibus Crime Control and Safe Streets Act of 1968, as amended
(19) Victims of Crime Act (as appropriate)
(20) Section 504 of the Rehabilitation Act of 1973, as amended
(21) Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990)
(22) Department of Justice regulations on disability discrimination, 28 C.F.R., Part 35 and Part 39
(23) 42 U.S.C. 5154a

Attachment C

Statement of Assurances

To the extent the following provisions apply to this Agreement, the Sub-recipient certifies that:

(a) It possesses legal authority to enter into this Agreement and to carry out the proposed program;

(b) Its governing body has duly adopted or passed as an official act of resolution, motion or similar action authorizing the execution of the hazard mitigation agreement with the Division of Emergency Management (DEM), including all understandings and assurances contained in it, and directing and authorizing the Sub-recipient's chief administrative officer or designee to act in connection with the application and to provide such additional information as may be required;

(c) No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall receive any share or part of this Agreement or any benefit. No member, officer, or employee of the Sub-recipient or its designees or agents, no member of the governing body of the locality in which this program is situated, and no other public official of the locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year after, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds, for work be performed in connection with the program assisted under this Agreement. The Sub-recipient shall incorporate, in all contracts or subcontracts a provision prohibiting any interest pursuant to the purpose stated above;

(d) All Sub-recipient contracts for which the State Legislature is in any part a funding source, shall contain language to provide for termination with reasonable costs to be paid by the Sub-recipient for eligible contract work completed prior to the date the notice of suspension of funding was received by the Sub-recipient. Any cost incurred after a notice of suspension or termination is received by the Sub-recipient may not be funded with funds provided under this Agreement unless previously approved in writing by the Division. All Sub-recipient contracts shall contain provisions for termination for cause or convenience and shall provide for the method of payment in such event;

(e) It will comply with:

(1) Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. 327 et seq., requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty hours in a work week; and

(2) Federal Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., requiring that covered employees be paid at least minimum prescribed wage, and also that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed work-week.

(f) It will comply with

(1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and the regulations issued pursuant thereto, which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Sub-recipient received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Sub-

recipient, this assurance shall obligate the Sub-recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits;

(2) Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age or with respect to otherwise qualifies handicapped individuals as provided in Section 504 of the Rehabilitation Act of 1973;

(g) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties pursuant to section 112.313 and section 112.3135, Florida Statutes;

(h) It will comply with the Anti-Kickback Act of 1986, 41 U.S.C. Chapter 87 which outlaws and prescribes penalties for “kickbacks” of wages in federally financed or assisted construction activities;

(i) It will comply with the provisions of 5 U.S.C. 7323 (further known as the Hatch Act) which limits the political activities of employees;

(j) It will comply with the flood insurance purchase and other requirements of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 50, including requirements regarding the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area having special flood hazards. The phrase “Federal financial assistance” includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;

For sites located within Special Flood Hazard Areas (SFHA), the Sub-recipient must include a FEMA Model Acknowledgement of Conditions of Mitigation of Property in a Special Flood Hazard Area with FEMA Grant Funds executed by the title holder with the closeout request verifying that certain SFHA requirements were satisfied on each of the properties. The Model Acknowledgement can be found at www.fema.gov/governmenta/grant/sfha_conditions.shtm

(k) It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Agreement to comply with the “Uniform Federal Accessibility Standards,” (AS) which is Appendix A to 41 C.F.R. Section 101-19.6 for general type buildings and Appendix A to 24 C.F.R., Part 40 for residential structures. The Sub-recipient will be responsible for conducting inspections to ensure compliance with these specifications by the contractor;

(l) It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C.), Executive Order 11593, 36 C.F.R., Part 800, and the Preservation of Archaeological and Historical Data Act of 1966 (54 U.S.C. 3125) by:

(1) Consulting with the State Historic Preservation Office to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 C.F.R., Section 800.8) by the proposed activity; and

(2) Complying with all requirements established by the State to avoid or mitigate adverse effects upon such properties.

(3) Abiding by the terms and conditions of the **"Programmatic Agreement Among the Federal Emergency Management Agency, the Florida State Historic Preservation Office, the Florida Division of Emergency Management and the Advisory Council on Historic Preservation, (PA)"** which addresses roles and responsibilities of Federal and State entities in implementing Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C., and implementing regulations in 36 C.F.R., Part 800.

(4) When any of the Sub-recipient's projects funded under this Agreement may affect a historic property, as defined in 36 C.F.R., Part 800.16 (I)(1), the Federal Emergency Management Agency (FEMA) may require the Sub-recipient to review the eligible scope of work in consultation with the State Historic Preservation Office (SHPO) and suggest methods of repair or construction that will conform with the recommended approaches set out in the **Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings 1992 (Standards),** the **Secretary of the Interior's Guidelines for Archeological Documentation (Guidelines)** (48 Federal Register 44734-37), or any other applicable Secretary of Interior standards. If FEMA determines that the eligible scope of work will not conform with the **Standards**, the Sub-recipient agrees to participate in consultations to develop, and after execution by all parties, to abide by, a written agreement that establishes mitigation and recondition measures, including but not limited to, impacts to archeological sites, and the salvage, storage, and reuse of any significant architectural features that may otherwise be demolished.

(5) The Sub-recipient agrees to notify FEMA and the Division if any project funded under this Agreement will involve ground disturbing activities, including, but not limited to: subsurface disturbance; removal of trees; excavation of footings and foundations, and installation of utilities (such as water, sewer, storm drains, electrical, gas, leach lines and septic tanks) except where these activities are restricted solely to areas previously disturbed by the installation, replacement or maintenance of such utilities. FEMA will request the SHPO's opinion on the potential that archeological properties may be present and be affected by such activities. The SHPO will advise the Sub-recipient on any feasible steps to be accomplished to avoid any National Register eligible archeological property or will make recommendations for the development of a treatment plan for the recovery or archeological data from the property.

If the Sub-recipient is unable to avoid the archeological property, develop, in consultation with SHPO, a treatment plan consistent with the **Guidelines** and take into account the Advisory Council on Historic Preservation (Council) publication "Treatment of Archeological Properties". The Sub-recipient shall forward information regarding the treatment plan to FEMA, the SHPO and the Council for review. If the SHPO and the Council do not object within fifteen (15) calendar days of receipt of the treatment plan, FEMA may direct the Sub-recipient to implement the treatment plan. If either the Council or the SHPO object, Sub-recipient shall not proceed with the project until the objection is resolved.

(6) The Sub-recipient shall notify the Division and FEMA as soon as practicable: (a) of any changes in the approved scope of work for a National Register eligible or listed property; (b) of all changes to a project that may result in a supplemental DSR or modify a HMGP project for a National Register eligible or listed property; (c) if it appears that a project funded under this Agreement will affect a previously unidentified property that may be eligible for inclusion in the National Register or affect a known historic property in an unanticipated manner. The Sub-recipient acknowledges that FEMA may require the Sub-recipient to stop construction in the vicinity of the discovery of a previously unidentified property that may eligible for inclusion in the National Register or upon learning that construction may affect a known historic property in an unanticipated manner. The Sub-recipient further acknowledges that FEMA may require the Sub-recipient to take all reasonable measures to avoid or minimize harm to such property until FEMA concludes

consultation with the SHPO. The Sub-recipient also acknowledges that FEMA will require, and the Sub-recipient shall comply with, modifications to the project scope of work necessary to implement recommendations to address the project and the property.

(7) The Sub-recipient acknowledges that, unless FEMA specifically stipulates otherwise, it shall not receive funding for projects when, with intent to avoid the requirements of the PA or the NHPA, the Sub-recipient intentionally and significantly adversely affects a historic property, or having the legal power to prevent it, allowed such significant adverse effect to occur.

(m) It will comply with applicable provisions of the following laws and policies prohibiting discrimination:

(1) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination based on race, color, or national origin (including limited English proficiency).

(2) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination based on disability.

(3) Title IX of the Education Amendments Act of 1972, as amended, which prohibits discrimination based on sex in education programs or activities.

(4) Age Discrimination Act of 1975, which prohibits discrimination based on age.

(5) U.S. Department of Homeland Security regulation 6 C.F.R. Part 19, which prohibits discrimination based on religion in social service programs.

(n) It will comply with Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;

(o) It will comply with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (42 U.S.C. 4541-45-94) relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(p) It will comply with 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

(q) It will comply with Lead-Based Paint Poison Prevention Act (42 U.S.C. 4821 et seq.) which prohibits the use of lead based paint in construction of rehabilitation or residential structures;

(r) It will comply with the Energy Policy and Conservation Act (P.L. 94-163; 42 U.S.C. 6201-6422), and the provisions of the State Energy Conservation Plan adopted pursuant thereto;

(s) It will comply with the Laboratory Animal Welfare Act of 1966, (7 U.S.C. 2131-2159), pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by an award of assistance under this Agreement;

(t) It will comply with Title VIII of the Civil Rights Act of 1968, (42 U.S.C 2000c and 42 U.S.C. 3601-3619), as amended, relating to non-discrimination in the sale, rental, or financing of housing, and Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or national origin;

(u) It will comply with the Clean Air Act of 1955, as amended, 42 U.S.C. 7401-7675;

(v) It will comply with the Clean Water Act of 1977, as amended, 33 U.S.C. 1251-1388

(w) It will comply with the endangered Species Act of 1973, 16 U.S.C. 1531-1544;

(x) It will comply with the Intergovernmental Personnel Act of 1970, 42 U.S.C. 4701-4772;

(y) It will assist the awarding agency in assuring compliance with the National Historic Preservation Act of 1966, as amended, 54 U.S.C.;

(z) It will comply with environmental standards which may be prescribed pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347;

(aa) It will assist the awarding agency in assuring compliance with the Preservation of Archeological and Historical Preservation Act of 1966, 16 U.S.C. 54 U.S.C. 3125

(bb) It will comply with the Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794, regarding non-discrimination;

(cc) It will comply with the environmental standards which may be prescribed pursuant to the Safe Drinking Water Act of 1974, 42 U.S.C. 300f-300j-27, regarding the protection of underground water sources;

(dd) It will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970, 42 U.S.C. 4621-4638, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs;

(ee) It will comply with the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271-1287, related to protecting components or potential components of the national wild and scenic rivers system;

(ff) It will comply with the following Executive Orders: EO 11514 (NEPA); EO 11738 (violating facilities); EO 11988 (Floodplain Management); and EO 11990 (Wetlands).

(gg) It will comply with the Coastal Barrier Resources Act of 1977, 16 U.S.C. 3501-3510;

(hh) It will assure project consistency with the approved State program developed under the Coastal Zone Management Act of 1972, 16 U.S.C. 1451-14674; and

(ii) It will comply with the Fish and Wildlife Coordination Act of 1958, 16 U.S.C. 661-668.

(jj) With respect to demolition activities, it will:

(1) Create and make available documentation sufficient to demonstrate that the Sub-recipient and its demolition contractor have sufficient manpower and equipment to comply with the obligations as outlined in this Agreement.

(2) Return the property to its natural state as though no improvements had ever been contained thereon.

(3) Furnish documentation of all qualified personnel, licenses and all equipment necessary to inspect buildings located in the Sub-recipient's jurisdiction to detect the presence of asbestos and lead in accordance with requirements of the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection and the County Health Department.

(4) Provide documentation of the inspection results for each structure to indicate:
   a. Safety Hazard Present
   b. Health Hazards Present

c. Hazardous Materials Present

(5) Provide supervision over contractors or employees employed by the Sub-recipient to remove asbestos and lead from demolished or otherwise applicable structures.

(6) Leave the demolished site clean, level and free of debris.

(7) Notify the Division promptly of any unusual existing condition which hampers the contractor's work.

(8) Obtain all required permits.

(9) Provide addresses and marked maps for each site where water wells and septic tanks are to be closed along with the number of wells and septic tanks located on each site. Provide documentation of closures.

(10) Comply with mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

(11) Comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act (42 U.S.C. 1857), Section 508 of the Clean Water Act (33 U.S.C. 1251-1388), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 C.F.R., Part 15 and 61). This clause shall be added to any subcontracts.

(12) Provide documentation of public notices for demolition activities.

Attachment D

REQUEST FOR ADVANCE OR REIMBURSEMENT OF HAZARD MITIGATION ASSISTANCE PROGRAM FUNDS

SUB-RECIPIENT: Town of Fort Myers Beach

REMIT ADDRESS: 2525 Estero Boulevard

CITY: Fort Myers Beach STATE: Florida ZIP CODE: 33931

PROJECT TYPE: Elevation PROJECT #: 4673-312-R

PROGRAM: Hazard Mitigation Grant Program CONTRACT #: H1360

BUDGET: _____ FEDERAL SHARE: _____ LOCAL: _____

ADVANCED RECEIVED: _____ N/A _____ AMOUNT: _____ SETTLED? _____

Invoice Period: _____ through _____ Payment No: _____

Total of Previous Payments to Date: _____ (Federal)
Total of Previous SRMC to Date: (SRMC Federal)
Total Federal to Date: _____ (Total Federal Paid)

Eligible Amount 100% (Current Request)	Obligated Federal Amount 75.00%	Obligated Local Non-Federal 25.00%	**Division Use Only**	
			Approved	Comments

TOTAL CURRENT REQUEST: $ _____

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812.

SUB-RECIPIENT SIGNATURE: _____

NAME: _____ TITLE: _____ DATE: _____

TO BE COMPLETED BY THE DIVISION

APPROVED PROJECT TOTAL $ _____

APPROVED SRMC TOTAL: $ _____

APPROVED FOR PAYMENT $ _____

_____
DIVISION DIRECTOR

_____
DATE

Attachment D (cont.)
SUMMARY OF DOCUMENTATION IN SUPPORT OF AMOUNT CLAIMED FOR ELIGIBLE DISASTER WORK UNDER THE HAZARD MITIGATION ASSISTANCE PROGRAM

SUB-RECIPIENT: Town of Fort Myers Beach PAYMENT #:

PROJECT TYPE: Elevation PROJECT #: 4673-312-R

PROGRAM: Hazard Mitigation Grant Program CONTRACT #: H1360

	REF NO[2]	DATE[3]	DOCUMENTATION [4]	*(Check) AMOUNT*	ELIGIBLE COSTS (100%)
1					
2					
3					
4					
5					
6					
7					
8					
This payment represents % completion of the project.				***TOTAL***	

[2] Recipient's internal reference number (e.g., Invoice, Receipt, Warrant, Voucher, Claim Check, or Schedule #)
[3] Date of delivery of articles, completion of work or performance services. (per document)
[4] List Documentation (Recipient's payroll, material out of recipient's stock, recipient owned equipment and name of vendor or contractor) by category (Materials, Labor, Fees) and line item in the approved project line item budget. Provide a brief description of the articles or services. List service dates per each invoice.

Attachment E
JUSTIFICATION OF ADVANCE PAYMENT

SUB-RECIPIENT: TOWN OF FORT MYERS BEACH

If you are requesting an advance, indicate same by checking the box below.

[ ] **ADVANCE REQUESTED**

Advance payment of $ _____ is requested. Balance of payments will be made on a reimbursement basis. These funds are needed to pay staff, award benefits to clients, duplicate forms and purchase start-up supplies and equipment. We would not be able to operate the program without this advance.

If you are requesting an advance, complete the following chart and line item justification below. PLEASE NOTE: Calculate your estimated expenses at 100% of your expected needs for ninety (90) days. Submit Attachment D with the cost share breakdown along with Attachment E and all supporting documentation.

ESTIMATED EXPENSES

BUDGET CATEGORY/LINE ITEMS (list applicable line items)	**20___-20___ Anticipated Expenditures for First Three Months of Contract**
For example ADMINISTRATIVE COSTS (Include Secondary Administration.)	
For example PROGRAM EXPENSES	
TOTAL EXPENSES	

LINE ITEM JUSTIFICATION **(For each line item, provide a detailed justification explaining the need for the cash advance. The justification must include supporting documentation that clearly shows the advance will be expended within the first ninety (90) days of the contract term. Support documentation should include quotes for purchases, delivery timelines, salary and expense projections, etc. to provide the Division reasonable and necessary support that the advance will be expended within the first ninety (90) days of the contract term. Any advance funds not expended within the first ninety (90) days of the contract term as evidenced by copies of invoices and cancelled checks as required by the Budget and Scope of work showing 100% of expenditures for the 90 day period shall be returned to the Division Cashier, 2489 Shumard Oak Boulevard, Tallahassee, Florida 32399, within thirty (30) days of receipt, along with any interest earned on the advance.**

Attachment F

QUARTERLY REPORT FORM

***Instructions**: Complete and submit this form to State Project Manager within15-days after each quarter:*

SUB-RECIPIENT: Town of Fort Myers Beach **PROJECT #:** 4673-312-R

PROJECT TYPE: Elevation **CONTRACT #:** H1360

PROGRAM: Hazard Mitigation Grant Program **QUARTER ENDING:** _____

Advance Payment Information:
Advance Received ☐ N/A ☐ Amount: $ _____ Advance Settled? Yes ☐ No ☐

Financial Amount to Date:
Sub-Recipient Total Project Expenditures to date (federal & local): $

Target Dates (State Agreement):
Contract Execution Date: _____ Contract Expiration Date: _____
Date Deliverables Submitted: _____ Closeout Requested Date: _____

Describe **Milestones** achieved during this quarter:

Project Proceeding on **Schedule**? ☐ Yes ☐ No (*If No, Describe under **Issues** below)*

Percentage of Milestones completed to Date: _____%

Describe Activities - Milestones completed this quarter only:

Schedule of the Milestones-Activities:

Milestone	**Dates** (estimated)
State Contracting	
Closeout Compliance	
Estimated Project Completion Date:	

Issues or circumstances affecting completion date, milestones, scope of work, and/or cost:

Cost Status: ☐ Cost Unchanged ☐ Under Budget ☐ Over Budget

Cost / Financial **Comments:**

NOTE: Events may occur between quarterly reports, which have significant impact upon your project(s), such as anticipated overruns, changes in scope of work, extensions. Contact the Division as soon as these conditions are known, otherwise you could be non-compliant with your sub-grant award.

Sub-Recipient Contract Representative (POC): _____

Signature: _____ Phone: _____

~ To be completed by Florida Division of Emergency Management Project Manager ~

Project Manager Statement: ☐ *No Action Required, OR*

☐ *Action Required:* _____

PM Percentage of Activates competed per PM Review QR Milestones Spreadsheet: ____%

Date Reviewed: _____ *Reviewer:* _____ *Project Manager*

Attachment G

Warranties and Representations

Financial Management

The Sub-Recipient's financial management system must comply with 2 C.F.R. §200.302.

Procurements

Any procurement undertaken with funds authorized by this Agreement must comply with the requirements of 2 C.F.R. §200, Part D—Post Federal Award Requirements—Procurement Standards (2 C.F.R. §§200.317 through 200.327).

Business Hours

The Sub-Recipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site, from: **8:00 AM - 5:00 PM, Monday Thru Friday, as applicable.**

Licensing and Permitting

All subcontractors or employees hired by the Sub-Recipient shall have all current licenses and permits required for all of the particular work for which they are hired by the Sub-Recipient.

Attachment H

Certification Regarding
Debarment, Suspension, Ineligibility
And Voluntary Exclusion

Subcontractor Covered Transactions

The prospective subcontractor, _____, of the Sub-Recipient certifies, by submission of this document, that neither it, its principals, nor affiliates are presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or disqualified from participation in this transaction by any Federal department or agency.

SUBCONTRACTOR

_____

By: _____
Signature

_____
Name and Title

_____
Street Address

_____
City, State, Zip

_____
Date

Town of Fort Myers Beach
Sub-Recipient's Name

H1360
DEM Contract Number

4673-312-R
FEMA Project Number

Attachment I

Federal Funding Accountability and Transparency Act

Instructions and Worksheet

PURPOSE: The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent of this legislation is to empower every American with the ability to hold the government accountable for each spending decision. The FFATA legislation requires information on federal awards (federal assistance and expenditures) be made available to the public via a single, searchable website, which is http://www.usaspending.gov/.

The FFATA Sub-award Reporting System (FSRS) is the reporting tool the Florida Division of Emergency Management ("FDEM" or "Division") must use to capture and report sub-award and executive compensation data regarding first-tier sub-awards that obligate $25,000 or more in Federal funds (excluding Recovery funds as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5).

Note: This "Instructions and Worksheet" is meant to explain the requirements of the FFATA and give clarity to the FFATA Form distributed to sub-awardees for completion. All pertinent information below should be filled out, signed, and returned to the project manager.

ORGANIZATION AND PROJECT INFORMATION

The following information must be provided to the FDEM prior to the FDEM's issuance of a sub-award (Agreement) that obligates $25,000 or more in federal funds as described above. Please provide the following information and return the signed form to the Division as requested.

PROJECT #: 4673-312-R

FUNDING AGENCY: Federal Emergency Management Agency

AWARD AMOUNT: $ 5,688,229.25

OBLIGATION/ACTION DATE: March 11, 2026

SUBAWARD DATE (if applicable): _____

UEID/SAM#: J87EFSEEQ884

*If your company or organization does not have a UEID/SAM number, you will need to obtain one from https://sam.gov/content/entity-registrationThe process to request a UEID/SAM number takes about ten minutes and is free of charge.

BUSINESS NAME: _____

DBA NAME (IF APPLICABLE): _____

PRINCIPAL PLACE OF BUSINESS ADDRESS: _____

ADDRESS LINE 1: _____

ADDRESS LINE 2: _____

ADDRESS LINE 3: _____

CITY _____ STATE _____ ZIP CODE+4** _____

PARENT COMPANY UEID/SAM# (if applicable): _____

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA#): _____

DESCRIPTION OF PROJECT (Up to 4000 Characters)

As a Hazard Mitigation Grant Program project, the Sub-Recipient proposes to provide flood protection to twenty-five (25) single-family residences located in Fort Myers Beach, Florida 33931.

The proposal is to elevate the existing residential structures, listed in the table below, to a minimum of two feet above the Base Flood Elevation (BFE). These properties are located within the Special Flood Hazard Area (SFHA) and are at risk of recurring structural flooding.

The scope of work of the proposed project shall involve building and site preparation, along with the disconnection of utilities at each property. The existing structures shall be raised on an open foundation and continuous wall foundation per the engineering design to the proposed design elevation. All utilities shall be reconnected, and service equipment shall be elevated to the required height. Appropriate means of ingress and egress shall be constructed to access the elevated living spaces at each property. The proposed project intends to reduce or eliminate future flood damage to these low-lying properties.

The foundation system for the properties located at 107 Albatross Street, 1920 Bayview Drive, 7831 Estero Boulevard, 111 Albatross Street, 8069 Estero Boulevard, and 274 Primo Drive, in Fort Myers Beach, Florida 33931, shall be designed to account for wave action, debris impact, erosion and local scour per the Florida Building Code requirements for Coastal VE Zones as delimited by the Limit of Moderate Wave Action on the Flood Insurance Rate Map. Foundation walls shall automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Due to the medical homeowner's condition, a lift platform shall be installed on properties located at 180 Ibis Street, 1920 Bayview Drive, 7831 Estero Boulevard, and 133 Albatross Street, in Fort Myers Beach, Florida, 33931.

The habitable living areas of the original structure(s) shall be elevated, and the non-habitable areas (if any) shall be converted to storage or parking. The project shall be designed and constructed in compliance with the Florida Building Code, ASCE 24-14 effective at the time of permitting, the applicable Federal Flood Risk Management Standards (FFRMS), NFIP standards in 44 CFR, Part 60 and/or local floodplain ordinances or any other applicable local regulations. A final Elevation Certificate shall be completed for closeout to certify the structure(s) was elevated to the required height.

Elevation projects must complete an inspection prior to starting any construction, conducted by a qualified professional to demonstrate the proposed structures are structurally sound and capable of being elevated

safely. A copy of the inspection report shall be provided to the Florida Division of Emergency Management within 12-months of the FEMA award date.

The project shall provide protection against a 100-year storm event. Activities shall be completed in strict compliance with Federal, State and Local applicable Rules and Regulations.

Project Locations:

ID#	Location	Coordinates
1)	160 Coconut Drive, Fort Myers Beach, Florida 33931	(26.440388, -81.922887)
2)	107 Albatross Street, Fort Myers Beach, Florida 33931	(26.420791, -81.901833)
3)	4810 Coquina Road, Fort Myers Beach, Florida 33931	(26.437080, -81.919417)
4)	180 Ibis Street, Fort Myers Beach, Florida 33931	(26.422052, -81.901086)
5)	1920 Bayview Drive, Fort Myers Beach, Florida 33931	(26.450849, -81.947458)
6)	7831 Estero Boulevard, Fort Myers Beach, Florida 33931	(26.406623, -81.895272)
7)	341 Jefferson Court, Fort Myers Beach, Florida 33931	(26.445823, -81.929214)
8)	150 Mandalay Road, Fort Myers Beach, Florida 33931	(26.441285, -81.925132)
9)	400 Randy Lane, Fort Myers Beach, Florida 33931	(26.435324, -81.913606)
10)	133 Albatross Street, Fort Myers Beach, Florida 33931	(26.421490, -81.900690)
11)	203 - 205 Fairweather Lane, Fort Myers Beach, Florida 33931	(26.450791, -81.945076)
12)	175 - 177 Tropical Shores Way, Fort Myers Beach, Florida 33931	(26.451924, -81.942429)
13)	163 Miramar Street, Fort Myers Beach, Florida 33931	(26.452155, -81.948686)
14)	5465 Avenida Pescadora, Fort Myers Beach, Florida 33931	(26.433652, -81.913317)
15)	185 Ibis Street, Fort Myers Beach, Florida 33931	(26.422405, -81.901423)
16)	111 Albatross Street, Fort Myers Beach, Florida 33931	(26.421140, -81.901697)
17)	331 Randy Lane, Fort Myers Beach, Florida 33931	(26.435894, -81.914984)
18)	156 Ibis Street, Fort Myers Beach, Florida 33931	(26.421887, -81.901639)
19)	8069 Estero Boulevard, Fort Myers Beach, Florida 33931	(26.405046, -81.891209)
20)	274 Primo Drive, Fort Myers Beach, Florida 33931	(26.456020, -81.952467)
21)	435 Donora Boulevard, Fort Myers Beach, Florida 33931	(26.448034, -81.930709)
22)	123 Falkirk Street, Fort Myers Beach, Florida 33931	(26.429794, -81.909853)
23)	249 Albatross Street, Fort Myers Beach, Florida 33931	(26.422361, -81.899554)
24)	206 Hibiscus Drive, Fort Myers Beach, Florida 33931	(26.442348, -81.924847)
25)	200 Ibis Street, Fort Myers Beach, Florida 33931	(26.422029, -81.900949)

Verify the approved project description above, if there is any discrepancy, please contact the project manager.

PRINCIPAL PLACE OF PROJECT PERFORMANCE (IF DIFFERENT THAN PRINCIPAL PLACE OF BUSINESS): _____

ADDRESS LINE 1: _____

ADDRESS LINE 2: _____

ADDRESS LINE 3: _____

CITY _____ STATE _____ ZIP CODE+4** _____

CONGRESSIONAL DISTRICT FOR PRINCIPAL PLACE OF PROJECT PERFORMANCE:

**Providing the Zip+4 ensures that the correct Congressional District is reported.

EXECUTIVE COMPENSATION INFORMATION:

1. In your business or organization's previous fiscal year, did your business or organization (including parent organization, all branches, and all affiliates worldwide) receive (a) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act, as defined at 2 C.F.R. 170.320; , (b) $25,000,000 or more in annual gross revenues from U.S. Federal procurement contracts (and subcontracts) and Federal financial assistance (e.g. loans, grants, subgrants, and/or cooperative agreements, etc.) subject to the Transparency Act?

   Yes ☐ No ☐

If the answer to Question 1 is "Yes," continue to Question 2. If the answer to Question 1 is "No", move to the signature block below to complete the certification and submittal process.

2. Does the public have access to information about the compensation of the executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) Section 6104 of the Internal Revenue Code of 1986?

   Yes ☐ No ☐

If the answer to Question 2 is "Yes," move to the signature block below to complete the certification and submittal process. [Note: Securities Exchange Commission information should be accessible at http//www.sec.gov/answers/execomp.htm. Requests for Internal Revenue Service (IRS) information should be directed to the local IRS for further assistance.]

If the answer to Question 2 is "No" FFATA reporting is required. Provide the information required in the "TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR" appearing below to report the "Total Compensation" for the five (5) most highly compensated "Executives", in rank order, in your organization. For purposes of this request, the following terms apply as defined in 2 C.F.R. Ch. 1 Part 170 Appendix A:

"Executive" is defined as "officers, managing partners, or other employees in management positions".

"Total Compensation" is defined as the cash and noncash dollar value earned by the executive during the most recently completed fiscal year and includes the following:

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

TOTAL COMPENSATION CHART FOR MOST RECENTLY COMPLETED FISCAL YEAR

(Date of Fiscal Year Completion _____)

Rank (Highest to Lowest)	**Name (Last, First, MI)**	**Title**	**Total Compensation for Most Recently Completed Fiscal Year**
1			
2			
3			
4			
5			

THE UNDERSIGNED CERTIFIES THAT ON THE DATE WRITTEN BELOW, THE INFORMATION PROVIDED HEREIN IS ACCURATE.

SIGNATURE: _____

NAME AND TITLE: _____

DATE: _____

Attachment J

Mandatory Contract Provisions

Provisions:

Any contract or subcontract funded by this Agreement must contain the applicable provisions outlined in Appendix II to 2 C.F.R. Part 200. It is the responsibility of the sub-recipient to include the required provisions. The following is a list of sample provisions from Appendix II to 2 C.F.R. Part 200 that may be required:[1]

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. Part 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or Sub-recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or

[1] For example, the Davis-Bacon Act is not applicable to other FEMA grant and cooperative agreement programs, including the Public Assistance Program or Hazard Mitigation Grant Program; however, sub-recipient may include the provision in its subcontracts.

repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2 (a) and the recipient or Sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or Sub-recipient must comply with the requirements of 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 C.F.R. 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 C.F.R. Part 1986 Comp., p. 189) and 12689 (3 C.F.R. Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of $100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See 2 C.F.R, § 200.323 Procurement of recovered materials.

(K) See 2 C.F.R, §200.216 Prohibition on certain telecommunication and video surveillance services or equipment.

(L) See 2 C.F.R, §200.322 Domestic preferences for procurements

(Appendix II to Part 200, Revised Eff. 11/12/2020).

FEMA created the 2019 PDAT Contract Provisions Template to assist non-Federal entities. It is *available at* https://www.fema.gov/media-library-data/1569959119092-92358d63e00d17639d5db4de015184c9/PDAT_ContractProvisionsTemplate_9-30-19.pdf.

Please note that the sub-recipient alone is responsible for ensuring that all language included in its contracts meets the requirements of 2 C.F.R. § 200.327 and 2 C.F.R. Part 200, Appendix II.

Attachment K

Certification Regarding Lobbying

Check the appropriate box:

☐ This Certification Regarding Lobbying is required because the Contract, Grant, Loan, or Cooperative Agreement will exceed $100,000 pursuant to 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.

☐ This Certification is not required because the Contract, Grant, Loan, or Cooperative Agreement will be less than $100,000.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Sub-Recipient or subcontractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

_____
Signature of Sub-Recipient/subcontractor's Authorized Official

_____
Name and Title of Sub-Recipient/subcontractor's Authorized Official

_____
Date

Attachment L

Florida Accountability Contract Tracking System (FACTS)
Requirements for Non-profit Organizations Under Section 216.1366, Florida Statutes
Instructions and Worksheet

CONTRACT DOCUMENTATION REQUIREMENTS

Section 216.1366, F.S., amended in 2023, establishes new documentation requirements for any contract for services executed, amended, or extended on or after July 1, 2023, with non-profit organizations as defined in s. 215.97 (2)(m). F.S. The contract must require the contractor to provide documentation that indicates the amount of state funds:

- Allocated to be used during the full term of the contract for remuneration to any member of the board of directors or an officer of the contractor.
- Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the contractor. The documentation must indicate the amounts and recipients of the remuneration.

Such information must be included in the contract tracking system maintained pursuant to s. 215.985 F.S. and must be posted on the contractor's website if the contractor maintains a website.

• As used in this subsection, the term:

o "Officer" means a Chief Executive Officer (CEO), Chief Financial Officer (CFO), Chief Operating Officer (COO), or any other position performing an equivalent function.

o "Remuneration" means all compensation earned by or awarded to personnel, whether paid or accrued, regardless of contingency, including bonuses, accrued paid time off, severance payments, incentive payments, contributions to a retirement plan, or in-kind payments, reimbursements, or allowances for moving expenses, vehicles and other transportation, telephone services, medical services, housing, and meals.

o "State funds" means funds paid from the General Revenue Fund or any state trust fund, funds allocated by the Federal Government and distributed by the state, or funds appropriated by the state for distribution through any grant program. The term does not include funds used for the state Medicaid program.

Note: This "Instructions and Worksheet" is meant to explain the requirements of the Section 216.1366, F.S., amended in 2023, and give clarity to the attached form distributed to recipients and sub-recipients for completion. All pertinent information below should be filled out, signed, and returned to the project manager.

NON-PROFIT ORGANIZATION REMUNERATION INFORMATION

1. Is your business or organization a non-profit organization as defined in s. 215.97 (2)(m). F.S.?
Yes ☐ No ☐

If the answer to Question 1 is "Yes," continue to Question 2. If the answer to Question 1 is "No", move to the signature block below to complete the certification and submittal process.

2. Will state funds be used as remuneration to any member of the board of directors or an officer in your business or organization?
Yes ☐ No ☐

If the answer to Question 2 is "Yes," provide the information required in the "Total Compensation Paid to Non-Profit Personnel Using State Funds" form below. A separate form should be completed for each member of the board of directors or officer being compensated using state funds. If the answer to Question 2 is "No", move to the signature block below to complete the certification and submittal process.

Total Compensation Paid to Non-Profit Personnel Using State Funds

Name:		
Title:		
Agency Agreement/Contract #		
Total Contract Amount		
Contract Term:		
Line Item Budget Category	**Total Amount Paid**	**Amount Paid from State Funds**
Salaries		
Fringe Benefits		
Bonuses		
Accrued Paid Time Off		
Severance Payments		
Retirement Contributions		
In-Kind Payments		
Incentive Payments		
Reimbursements/Allowances		
Moving Expenses		
Transportation Costs		
Telephone Services		
Medical Services Costs		
Housing Costs		
Meals		

CERTIFICATION: I certify that the amounts listed above are true and accurate and in accordance with the approved budget.

Name:	
Signature:	
Title:	
Date:	

ATTACHMENT M

FOREIGN COUNTRY OF CONCERN AFFIDAVIT –
PERSONAL IDENTIFYING INFORMATION CONTRACT

Section 287.138, Florida Statutes, prohibits a Florida "Governmental entity"[2] from entering into or extending contracts with any other entity whereby such a contract, or extension thereof, could grant the other entity access to an individual's personal identifying information if that entity is associated with a "Foreign Country of Concern."[3] Specifically, section 287.138(2), Florida Statutes, prohibits such contracts with any entity that is owned by the government of a Foreign Country of Concern, any entity in which the government of a Foreign Country of Concern has a "controlling interest,"[4] and any entity organized under the laws of or which has its principal place of business in a Foreign Country of Concern.

As the person authorized to sign on behalf of Respondent, I hereby attest that the company identified above in the section entitled "Respondent Vendor Name" is not an entity owned by the government of a Foreign Country of Concern, no government of a Foreign Country of Concern has a controlling interest in the entity, and the entity has not been organized under the laws of or has its principal place of business in a Foreign Country of Concern.

I understand that pursuant to section 287.138, Florida Statutes, I am submitting this affidavit under penalty of perjury.

Respondent Vendor Name: _____

Vendor FEIN: _____

Vendor's Authorized Representative Name and Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____

Email Address: _____

Certified By: _____
AUTHORIZED SIGNATURE

Print Name and Title: _____

Date: _____

[2] As defined in Section 287.138 (1)(d), Florida Statutes.
[3] As defined in Section 287.138 (1)(c), Florida Statutes.
[4] As defined in Section 287.138 (1)(a), Florida Statutes.

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO AWARD ITB-26-13-PW TO PERSONS SERVICE CORP AS THE LOWEST, RESPONSIVE AND RESPONSIBLE BIDDER; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND PERSONS SERVICE CORP SUBJECT TO LEGAL REVIEW AND TO EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The roadway infrastructure of the Town of Fort Myers Beach has been subject to significant deterioration and damage over time, including impacts from Hurricane Ian and ongoing wear from coastal environmental conditions. The Fort Myers Beach Roadway, Curb, and Right-of-Way Repair & Reconstruction Project will restore and reconstruct damaged roadways, curbs, sidewalks, and rights-of-way throughout the Town's jurisdiction on an as-needed basis. Work locations include Town streets, sidewalks, beach accesses, and associated rights-of-way throughout Estero Island. These improvements will benefit the community and serve to restore and maintain safe, functional public infrastructure for residents and visitors alike.

What the action accomplishes:

This action awards ITB-26-13-PW to Persons Service Corp as the lowest responsive and responsible bidder to furnish all labor, supervision, equipment, materials, transportation, and incidentals necessary to provide on-call roadway, curb, sidewalk, drainage, and right-of-way repair, reconstruction, and improvement services on Estero Island as directed by the Town of Fort Myers Beach. All work shall be performed in accordance with applicable FDOT Standard Specifications (latest edition), MUTCD, and ADA/PROWAG requirements. Where federal funds are utilized, work shall additionally comply with 2 CFR 200.317–326 as applicable. No minimum amount of work is guaranteed under this contract.

This action also authorizes the Town Manager to enter into an agreement with Persons Service Corp.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Jeff Hauge, Community Services Director

---

5. **Background:**

The Town of Fort Myers Beach seeks to contract with a qualified Vendor to provide on-call roadway, curb, sidewalk, drainage, and right-of-way repair, reconstruction, and improvement services for Fort Myers Beach, Florida. Services will be provided on an as-needed basis. No minimum amount of work is guaranteed. Not all tasks will be assigned for all work orders. Services shall include, but are not limited to: asphalt milling and resurfacing, full-depth reconstruction, base stabilization, concrete curb and gutter, sidewalk and ADA ramps, driveway aprons, pavement markings and signage, utility and drainage structure adjustment, culvert and roadway shoulder restoration, maintenance of traffic (MOT), as-built documentation where required, and emergency repairs.

The Town anticipates the award of one (1) contract as a result of this Invitation to Bid. No

minimum amount of work is guaranteed to the Contractor. All work shall be performed in accordance with applicable FDOT Standard Specifications (latest edition), MUTCD, and ADA/PROWAG requirements. Where federal funds are utilized, work shall additionally comply with 2 CFR 200.317–326 as applicable. No professional engineering services as defined under Section 287.055, Florida Statutes (CCNA) are included in this solicitation; all services procured hereunder are construction and maintenance services only.

On March 26, 2026, the Town issued ITB-26-13-PW for Roadway, Curb, and Right-of-Way Repair & Reconstruction Services. Bids were due on April 27, 2026, at which time the Town received two (2) bids, both of which were complete and responsive. Bids were publicly opened and read aloud on April 27, 2026, in Town Hall Council Chambers, and tabulated in accordance with the Town of Fort Myers Beach Purchasing Ordinance 26-06. Award was made to the lowest responsive and responsible Bidder based on the total extended bid price submitted in Exhibit B. After review of the bid tabulation, Persons Service Corp was identified as the lowest responsive and responsible Bidder. The Town Manager, after reviewing the bid results, has forwarded this item to the Town Council for consideration during a regularly scheduled meeting. The Town Council is requested to award one (1) contract to the lowest responsive and responsible Bidder.

Attachments:

1. NS 26-105, Paving ITB-26-13-PW
2. Exhibit A, Persons Service Corp. Contract

Financial Impact:

These services are on an as-needed basis and may be partially or fully funded by FDOT, FEMA, road maintenance, or other applicable State and Federal Funding.

6. **Alternative Action**

Do not award ITB 26-13-PW to Persons Services Corp.

7. **Management Recommendations:**

Award ITB 26-13-PW to Persons Service Corp. as the lowest responsive and responsible bidder for Roadway, Curb, Right-of-Way Repair & Reconstruction Services

8. **Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison	Created/Initiated - 5/29/2026
Jeff Hauge, Community Services Director	Approved - 6/1/2026
Conor Nally, Contracts & Procurement Manager	Approved - 6/1/2026
Joe Onzick, Finance Director	Approved - 6/4/2026
Carolyn Luomala, Acting Controller	Approved - 6/5/2026
nancy stuparich, Town Attorney	Approved - 6/7/2026
Amy Baker, Town Clerk	Approved - 6/8/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-105

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO AWARD ITB-26-13-PW TO PERSONS SERVICE CORP AS THE LOWEST, RESPONSIVE AND RESPONSIBLE BIDDER; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND PERSONS SERVICE CORP SUBJECT TO LEGAL REVIEW AND TO EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on March 26, 2026 the Town issued ITB-26-13-PW for Roadway, Curb, and Right-of-Way Repair & Reconstruction Services and bids were due on April 27, 2026, at which time the Town received two (2) bids, both of which were complete and responsive; and

WHEREAS, after review of the bid tabulation, Persons Service Corp. was identified as the lowest responsive and responsible bidder; and

WHEREAS, the Town Manager, after reviewing the bid results, has forwarded this item to the Town Council for consideration during a regularly scheduled meeting; and

WHEREAS, the Town Council is requested to award one (1) contract to Persons Service Corp.; and

WHEREAS, it is in the best interest of the Town to contract with Persons Service Corp. as provided in the agreement.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby awards the contract to Persons Service Corp and authorizes the Town Manager to execute an agreement, substantially similar to the agreement attached as Exhibit A, between the Town of Fort Myers Beach and Persons Service Corp, subject to legal review, and to expend budgeted funds on behalf of the town.

Section 3. This resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ and seconded by _____, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	____
Scott Safford, Vice Mayor	____
John R. King, Council Member	____
Rebecca Link, Council Member	____
John McLean, Council Member	____

ADOPTED this ____ day of _____ 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

_____
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on _____.

INDEPENDENT CONTRACTOR'S AGREEMENT

THIS INDEPENDENT CONTRACTOR'S AGREEMENT (hereinafter this "Agreement") is made and entered into this ____ day of _____ 2026, by and between the **TOWN OF FORT MYERS BEACH**, a Florida municipal corporation (hereinafter the "TOWN") and Persons Service Corp., a Foreign Profit Corporation (hereinafter "CONTRACTOR").

WITNESSETH

WHEREAS, the TOWN is a Florida municipal corporation, having a responsibility to provide certain services to benefit the citizens of the TOWN OF FORT MYERS BEACH; and

WHEREAS, the TOWN has the full power and authority to enter into the transactions contemplated by this Agreement; and

WHEREAS, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates.

NOW THEREFORE in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.

2. **Agreement Overview.**

   a. Project Title and Description: Roadway, Curb, and Right-of-Way Repair & Reconstruction Services

   b. Procurement Method: Invitation to Bid No. 26-13-PW

   c. External Funding Source(s):

   ☒ State funding (specify): FDOT

   ☒ Federal funding (specify): FEMA

   ☐ Other (specify): _____

   ☐ Not Applicable

d. Agreement Type:

☐ ~~Defined Scope Agreement (specified recurrent services, subscriptions, single projects, and specific deliverables)~~

☒ Agreement Utilizing Supplemental Task Authorizations (e.g. Continuing Services Agreement)

e. Term, Time, and Delivery:

☒ This Agreement has a Term of three (3) year(s) beginning on June 15, 2026 and ending on June 14, 2029, and may be renewed for up to two (1) additional Term(s) of one (1) year(s) each, upon agreement of the parties in writing.

☒ CONTRACTOR shall commence work under this Agreement immediately upon receipt by CONTRACTOR of the Notice to Proceed and must complete the work according to the schedule set forth in Exhibit "C". Liquidated damages, if any, will be assessed against CONTRACTOR for late completion as set forth in Exhibit "C".

f. Project Management:

TOWN's Project Manager		CONTRACTOR's Project Manager	
Name:	Jeff Hauge	Name:	Sammy Vincenty
Title:	Director of Community Services	Title:	Regional General Manager
Phone:	239-765-0202	Phone:	954-616-5106 x339
Email:	jhauge@fmbgov.com	Email:	svincenty@personsservices.com

g. Notice Addresses:

TOWN: Fort Myers Beach Town Council, Attn: Town Manager, 6231 Estero Blvd, Fort Myers Beach, Florida 33931

CONTRACTOR: Person Service Corp., Attn: Regional General Manager
4474 Halls Mills Rd. Mobile, AL 36693

h. Exhibits: The Parties shall comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated herein by reference:

☒	Exhibit "A"	Scope of Work
☒	Exhibit "B"	Compensation and Pricing
☒	Exhibit "C"	Work Schedule
☒	Exhibit "D"	Supplemental Task Authorization Form

☒	Exhibit “E”	Florida Statutory Requirements
☐	Exhibit “F”	Attachment 8: Federal Regulations and Terms (Federal)
☐	Exhibit “G”	Additional Terms for State-Funded Agreements (_____)
☐	Exhibit “H”	Plans/Specifications/Shop Drawings
☒	Exhibit “I”	Affidavit Regarding Labor and Services
☐	Exhibit “J”	Other (Specify): _____
☐	Exhibit “K”	Other (Specify): _____
☐	Exhibit “L”	Other (Specify): _____

i. ~~Additional Provisions:~~

_____
_____
_____
_____
_____
_____

3. Description of Work.

a. The TOWN hereby retains CONTRACTOR to furnish goods and/or services as described in the Scope of Work, which is attached hereto as Exhibit "A" and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" will be resolved in favor of the body of this Agreement.

b. CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Work, unless specifically excluded.

c. CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the TOWN, together with any addenda, hereinafter the “Bid Documents, as applicable.” The Bid Documents, if applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.

4. Supplemental Task Authorizations. The provisions of this paragraph only apply if “Agreement Utilizing Supplemental Task Authorizations” is checked in paragraph 2(d) (“Agreement Type”) above.

a. This Agreement anticipates a variety of projects being requested by the TOWN to be provided by the CONTRACTOR as determined necessary by the TOWN.

b. All work to be performed by CONTRACTOR under this Agreement shall be authorized in writing by the TOWN. Such authorization will be referred to as a “Supplemental Task Authorization” and shall reference this Agreement as the “Master Agreement”.

Supplemental Task Authorizations shall be in a form substantially similar to the form attached hereto as Exhibit "D" (if selected above in paragraph 2(k)).

c. Supplemental Task Authorizations shall contain a description of the work to be undertaken, a budget amount of the fee to be paid, and a time schedule.

d. Supplemental Task Authorizations may contain additional provisions specific to the authorized work for the purpose of expanding upon certain aspects of this Agreement pertinent to the work to be undertaken. Such supplemental instruction or provision shall not be construed as a modification to this Agreement.

e. When CONTRACTOR and the TOWN enter into a Supplemental Task Authorization wherein the term of the Supplemental Task Authorization expires on a date that is later than the date that this Agreement expires, the CONTRACTOR and the TOWN agree that the terms of this Agreement are automatically extended until the expiration or full completion of the requirements of the Supplemental Task Authorization has been performed. Cancellations by the TOWN of any remaining work prior to the full completion of the requirements of the Supplemental Task Authorization shall cause the terms of this Agreement to terminate at the same time. This provision shall only apply when the expiration of the Supplemental Task Authorization extends beyond the expiration of this Agreement. It does not apply when a Supplemental Task Authorization expires or is canceled prior to the expiration of this Agreement.

5. Payment.

a. The TOWN agrees to compensate CONTRACTOR, for work actually authorized and performed under this Agreement, at the rate or basis described in Exhibit "B", which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Work, but in no event will CONTRACTOR be paid more than the negotiated amount(s) set forth in Exhibit "B".

b. Payments shall be made in accordance with the Florida Local Government Prompt Payment Act in accordance with the payment schedule provided in Exhibit "B".

c. Progress payments, if any, will be made as set forth in Exhibit "B".

d. The TOWN reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.

6. Project management. The Project Managers for this project are set forth above in paragraph 2 ("Agreement Overview"). Any subsequent changes to the Project Manager for either party may be provided by notice as described in paragraph 7 ("Notices") below and does not require an amendment to this Agreement.

7. Notices. All notices to the parties under this Agreement must be in writing and sent certified mail to the addresses set forth above in paragraph 2 ("Agreement Overview").

8. Termination.

a. Termination at Will: This Agreement may be terminated by the TOWN in whole or in part at any time without cause by the TOWN giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

b. Termination for Cause: This Agreement may be terminated by either party for cause by the TOWN or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

9. General Provisions. CONTRACTOR must comply with the following general provisions:

a. Warranty. CONTRACTOR guarantees to repair, replace or otherwise make good to the satisfaction of the TOWN any defect in workmanship or material appearing in the work; and further guarantees the successful performance of the work for the service intended. Neither inspection nor payment, including final payment, by the TOWN will relieve CONTRACTOR from its obligations to do and complete the work in accordance with this Agreement. If the TOWN deems it inexpedient to require CONTRACTOR to correct deficient or defective work, the TOWN may make an equitable deduction from the contract price, or, in the alternative, the TOWN may seek damages. CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the TOWN) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the TOWN in writing if it appears, in CONTRACTOR's professional judgement that the data or information provided by the TOWN for use in CONTRACTOR's work product is incomplete, defective, or unreliable. CONTRACTOR guarantees to amend, revise, or correct to the satisfaction of the TOWN any error appearing in the work as a result of CONTRACTOR's failure to comply with the warranties and representations contained herein.

b. Bond. If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the TOWN, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the TOWN to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the TOWN. The TOWN will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to

CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the TOWN.

c. Insurance.

i. CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the TOWN from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.

ii. The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:

1. ■ **Commercial General Liability:** Coverage shall have minimum limits of **$** 1,000,000 Per Occurrence, **$** 2,000,000 aggregate for Bodily Injury Liability and Property Damage Liability. The General Aggregate Limit shall be endorsed to apply per project. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.

2. ■ **Business Auto Liability:** Coverage shall have minimum limits of **$** 1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include: Owned Vehicles, Hired and Non-Owned Vehicles and Employee Non-Ownership.

3. ■ **Workers' Compensation:** Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The coverage must include Employers' Liability with a minimum limit of **$** 1,000,000 for each accident.

4. ☐ ~~**Professional Liability:** Shall be maintained by the Contractor to ensure its legal liability for claims arising out of the performance of professional services under this Agreement. Contractor waives its right of recovery against the Town as to any claims under this insurance. Such insurance shall have limits of not less than **$** _____ each claim and aggregate.~~

5. ☐ ~~**Cyber Liability:** Coverage shall have minimum limits of **$** _____ per claim.~~

6. ☒ Umbrella/Excess Liability: Coverage shall have minimum limits of **$** 5,000,000 per claim/Occurrence

~~7. ☐ _____: Coverage shall have minimum limits of **$** _____ per claim/Occurrence.~~

~~8. ☐ _____: Coverage shall have minimum limits of $ _____ per claim/Occurrence.~~

iii. CONTRACTOR must furnish the TOWN with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The TOWN is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the TOWN before commencement of any work activities.

iv. The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self–insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

d. Compliance with Federal, State, and Local Laws. CONTRACTOR and CONTRACTOR's agents shall comply with all federal, state and local regulations, including those now in effect and hereafter adopted, and including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements.

e. Personal nature of Agreement; Assignment.

1. The parties acknowledge that the TOWN places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the TOWN.

2. If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the TOWN Project Manager

prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.

f. Independent contractor.

1. CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the TOWN. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the TOWN. None of the benefits, if any, provided by the TOWN to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the TOWN to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the TOWN and is subject to the TOWN's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The TOWN will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.

2. CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.

3. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

g. Indemnification.

1. CONTRACTOR must indemnify and hold the TOWN harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the TOWN, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR must

further indemnify the TOWN against any claim that any product purchased or licensed by the TOWN from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the TOWN by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the TOWN and not considered to be the TOWN's exclusive remedy.

2. In the event that any claim in writing is asserted by a third party which may entitle the TOWN to indemnification, the TOWN must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the TOWN decides to participate in the proceeding or defense, the TOWN will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.

3. The indemnification provisions of this paragraph will survive the termination of this Agreement.

h. Sovereign Immunity. Nothing in this Agreement extends, or will be construed to extend, the TOWN's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the TOWN to be sued by third parties in any matter arising out of this Agreement.

10. Miscellaneous Provisions. The following miscellaneous provisions apply to this Agreement:

a. **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.

b. **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the TOWN staff do not suffice to legally bind the TOWN in a

contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized TOWN representatives.

c. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.

d. **Non-appropriation.** TOWN's performance and obligation to pay under this Agreement is contingent upon an appropriation during the TOWN's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the TOWN Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the TOWN subject to the TOWN paying all invoices for services rendered during the period the Agreement was funded by appropriations.

e. **Taxes.** The TOWN shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the TOWN is exempt from same by Florida law, including but not limited to any sales or use tax.

f. **Severability**. If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.

g. **Construction**. If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.

h. **Headings**. All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.

i. **Waiver**. The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the TOWN's rights under this Agreement,

or of any cause of action the TOWN may have arising out of the performance of this Agreement.

j. **Force Majeure**. Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Work" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.

k. **Law; Venue.** This Agreement is being executed in Lee County, Florida and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Lee County, Florida.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective the date first written above.

ATTEST:

By: _____

Dated: _____

(SEAL)

TOWN OF FORT MYERS BEACH, FLORIDA

By: _____
William McKannay, Town Manager

Contractor's Witnesses:

_____
Contractor's First Witness

_____
↑Type/print witness name↑

_____
Contractor's Second Witness

_____
↑Type/print witness name↑

Persons Service Corp.
Contractor

By:_____
Signature

_____
↑Type/print signature and title↑

Approved as to Form and Legality:

_____
Town Attorney

_____
Print Name

EXHIBIT "A"

SCOPE OF WORK

☒ following this page (pages 1 through 5)

☐ this exhibit is not applicable

EXHIBIT "A" – SCOPE OF SERVICES

1. General Scope of Work

1.1. The Vendor will provide on-call roadway, curb, sidewalk, drainage, and right-of-way repair, reconstruction, and improvement services. Services will be provided on an as-needed basis. No minimum amount of work is guaranteed. Not all tasks will be assigned for all work orders. Services shall include, but are not limited to:

- Asphalt milling and resurfacing
- Full-depth reconstruction
- Base stabilization
- Concrete curb & gutter
- Sidewalk and ADA ramps
- Driveway aprons
- Pavement markings and signage
- Utility and drainage structure adjustment
- Culvert and roadway shoulder restoration
- Maintenance of Traffic (MOT)
- As-built documentation where required
- Emergency repairs

1.2. All work under this Agreement shall be performed in accordance with applicable FDOT Standard Specifications (latest edition), MUTCD, ADA/PROWAG, and where federal funds are used, with 2 CFR 200.317–326 as updated and where applicable. No professional engineering services, as defined under Section 287.055, Florida Statutes (Consultants' Competitive Negotiation Act), are included in this solicitation. All services procured hereunder are construction and maintenance services only.

2. Definitions

- Contractor / Firm – The successful Bidder(s).
- Town's CEI / Inspector – The Town's Construction Engineering & Inspection representative(s) or designee providing inspection and administrative services.
- Right of Way (ROW) – Town-owned streets, sidewalks, and associated public areas.
- MOT – Maintenance of Traffic, compliant with MUTCD standards.
- CSA – Construction Staging Area approved by the Town.
- FDOT Specifications – Florida Department of Transportation Standard Specifications, latest edition.

3. Contractor Responsibility & Additional Scope Conditions

3.1. Contractor may be called upon for scheduled and emergency work orders and shall provide, each year of this contract, a minimum of one (1) day (up to 8 hours) of on-site, pre-event training on MOT and emergency roadway response at no additional charge.

3.2. Contractor shall provide technical guidance and consultation before, during, and after work orders. Contractor shall provide trained administrative support, on-site management staff, field supervisors, operators, laborers, and all associated vehicles, equipment, tools, and supplies necessary to ensure successful operations.

3.3. The Contractor shall be responsible for knowledge and compliance with all federal, state, and local laws, rules, practices, and regulations. The Contractor shall be familiar with the Town's standards.

3.4. No guarantee is expressed or implied as to the quantity of services to be procured; no work is guaranteed.

4. Initiating Contract When Work is Authorized

4.1. The Town will issue a Notice to Proceed (NTP) and work order/task authorization delineating scope, location(s), priority, and any special requirements.

4.2. Upon NTP, the Contractor shall begin pre-work preparations, including MOT plans, submittals, mix designs (if required), coordination with utilities, and scheduling.

4.3. The Contractor shall have a maximum of 24 hours from NTP to mobilize and begin emergency response; standard work orders shall mobilize within 10 calendar days unless otherwise specified.

4.4. Contractor shall determine methods and means to execute the work in compliance with Town direction, FDOT standards, and approved submittals. Material quantities (e.g., asphalt tonnage, concrete volume) must be properly documented.

4.5. For activities requiring Construction Staging Areas (CSA), the Contractor shall assist the Town in identifying suitable sites and establishing site plans and operations.

5. Relationship Between Town's CEI/Inspector & Contractor

5.1. The Town's CEI/Inspector will provide inspection, measurement, and administrative services as needed to meet quality standards and funding requirements. Contractor must work with various documentation systems.

5.2. Prior to each construction season, the Contractor shall meet with the Town and CEI to finalize and test processes for inspection, documentation, daily reporting, pay quantities, and testing.

5.3. Contractor shall fully cooperate with the Town and CEI. All operations must be documented using daily work reports, pay quantity summaries, truck tickets, batch tickets, and testing results.

6. Scope of Work – Description of Services

Contractor shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services to execute, complete and deliver roadway, curb, sidewalk, and ROW work, including:

- Emergency Roadway Response & Temporary Repairs (pothole patching, temporary surfaces, hazard mitigation)
- Asphalt Pavement Work (milling, resurfacing, overlays, full depth reconstruction, base stabilization, tack/prime)
- Concrete Work (curb & gutter, sidewalks, ADA ramps, driveway aprons, valley gutters)
- Drainage Work (inlet/manhole replacement or adjustment; culvert installation/removal)
- Pavement Markings & Signage (thermoplastic/paint, RPMs, signs)
- Site Restoration (grading shoulders, sodding/seeding as needed, final cleaning)
- Testing & Quality Control (density, asphalt extraction, slump/air for concrete, as applicable)
- As-Builts/Closeout Documentation when required

Contracted services shall only be performed when requested and as designated by the Town via a Notice to Proceed.

6.1. Emergency Road Clearance & Temporary Repairs. If directed, Contractor shall provide immediate hazard mitigation, including temporary lane repairs, barricading, MOT, and temporary pavement.

6.2. Right of Way (ROW) Work Limits. Contractor shall maintain work within Town ROW unless

otherwise authorized (e.g., driveway tie-ins). Care shall be taken to avoid damage; damages shall be addressed per Section 9.4.

6.3. Private Property Access/Tie-Ins (if Authorized). When authorized, Contractor may perform driveway or sidewalk tie-ins on private property with Town-secured permissions.

6.4. Demolition/Removal (if Authorized). Contractor shall remove existing pavements, curbs, sidewalks, and associated features designated by the Town.

6.5. Submittals. Contractor shall submit mix designs, product data, traffic control plans (MOT), and schedules for approval where required.

6.6. Material Reuse/Ownership. Unless directed otherwise, milled asphalt becomes the property of the Town and shall be hauled to Town-designated locations; other surplus materials shall be disposed of lawfully.

6.7. Technical Assistance & Community Coordination. Contractor shall support public outreach efforts when requested (e.g., notices for lane closures).

6.8. Production Rates. Contractor shall sequence and resource work to meet Town-directed schedules and production targets.

6.9. Environmental Controls. Implement erosion/sediment controls, dust suppression, and stormwater compliance.

6.10. Specialized Crews. Provide dedicated crews for ADA, markings, or drainage when requested.

7. Performance of Services

7.1. Perform in a professional and workmanlike manner per FDOT standards and Town direction.

7.2. Contractor bears all operating costs, permits, fees, and equipment maintenance.

7.3. Sub-Contractors. Allowed; Contractor is responsible for their acts/omissions.

7.4. Quality unacceptable to the Town may be rejected; rework shall be performed at no cost to the Town.

8. Standards of Performance

8.1. Contractor Representative. Report within 24 hours of contract execution; remain local during operations; provide progress reports as requested.

8.2. Mobilization. For emergency work: mobilize within 24 hours of NTP. For standard work: within 10 days unless otherwise directed. Maintain sufficient resources (e.g., to pave in typical residential sections at ~500–1,500 tons/week or as directed by the Town; rates may be adjusted by the Town based on scope).

8.3. Time to Complete. Use all efforts to complete work as soon as feasible and within schedules set by the Town.

8.4. Completion of Work. Complete all work, restoration, cleanup, and punch list items to the Town's satisfaction.

8.5. Substantial Completion. Substantial completion of a work order shall be achieved when all contract work items within the work order limits have been completed such that the roadway, sidewalk, or right-of-way may be safely returned to normal public use, as determined by the Town or its CEI/Inspector. Minor punch list items, final site restoration, and closeout documentation may remain outstanding at the time of

substantial completion. The Town shall issue written notification of substantial completion to the Contractor upon its determination that this standard has been met.

8.6. Punch List. Within five (5) business days following the Town's determination of substantial completion, the Town or its CEI/Inspector shall issue a written punch list identifying all remaining deficiencies, incomplete items, and required site restoration. The Contractor shall complete all punch list items, site restoration, final cleanup, and as-built documentation (where required pursuant to Section 10.9) within fourteen (14) calendar days of receipt of the punch list, unless a different timeframe is authorized by the Town in writing. Failure to complete punch list items within this period shall subject the Contractor to liquidated damages as specified in the Liquidated Damages provision of this Solicitation.

8.7. Final Completion and Acceptance. Final completion of a work order shall be achieved when all punch list items have been resolved, all site restoration has been completed, and all required closeout documentation (including as-built documentation where applicable) has been submitted to and accepted by the Town. The Town shall issue written notification of final acceptance to the Contractor. Final payment for the work order, less any liquidated damages, shall not be processed until the Town has issued written final acceptance.

8.8. Warranty. The Contractor shall warrant all work, materials, and workmanship against defects for a period of one (1) year from the date of the Town's written final acceptance of each work order. During the warranty period, the Contractor shall, at no additional cost to the Town, repair or replace any work found to be defective in materials or workmanship, including but not limited to pavement failures, concrete cracking, settlement, or drainage deficiencies attributable to the Contractor's work. The Contractor shall respond to warranty claims within ten (10) calendar days of written notification by the Town, and shall complete warranty repairs within a timeframe agreed upon by the Town. This warranty is in addition to, and does not limit, any other warranties or remedies available to the Town under applicable law.

9. General Responsibilities

9.1. Town Obligations. Provide NTP, scope, and points of contact; issue PSAs as needed.

9.2. Contractor's Conduct of Work. Maintain courteous, safe, and minimally disruptive operations; adhere to Town Code of Ethics.

9.3. Supervision. Provide qualified supervisors with authority to act; ensure adequate supervision across concurrent sites.

9.4. Damages by Contractor. Contractor is responsible for all damages due to its operations; must repair promptly at no cost and secure releases; maintain a Damage Log; unresolved damages may lead to cost withholding.

9.5. Duty Regarding Other Contractors. Do not interfere with other Town or utility contractors.

9.6. Material Disposal. Dispose of surplus materials lawfully at approved locations; furnish scale/batch tickets as required.

9.7. Construction Staging Areas (CSA). Contractor to propose and manage CSAs with Town approval, including site setup, operations, and remediation.

9.8. CSA Plans & Environmental Protection Plan. Within 90 days of contract execution, provide generic CSA management plan; for each CSA used, submit a scaled plan showing access, traffic control, safety, stockpiles, equipment areas, stormwater controls, and restoration plan.

9.9. Testing & QC. Perform and document materials testing per FDOT/Town requirements (e.g., density tests, extraction/gradations, concrete cylinders). Testing costs may be pass-through at cost if a Town-directed independent lab is used.

9.10. MOT & Traffic Control. Provide and maintain MOT per MUTCD and Town direction.

9.11. Workdays/Hours. Construction may occur 30 minutes before sunrise to 30 minutes after sunset, 7 days/week, unless prohibited; night work or 24-hour operations may be authorized by the Town.

9.12. Safety. Comply with OSHA; provide PPE, training, and supervision.

9.13. Inspection & Access. All work subject to inspection by the Town and authorities; provide access to records and sites.

9.14. Retention of Equipment. Maintain sufficient equipment to meet schedule; equipment removed prior to completion must be replaced with equal or better unless Town approves downsizing.

10. Scope of Services – Detail

10.1. Geographic Assignment. Work is limited to properties within Town jurisdiction unless otherwise directed.

10.2. Passes/Phasing. Town may direct phasing by street/zone; subsequent activities (e.g., markings) to occur within specified durations.

10.3. Operation of Equipment. Maintain equipment free of leaks; control dust and track out; no operation on private property without authorization.

10.4. Quantity Measurement & Certification. Provide certified truck scales/batch tickets for asphalt (tons) and concrete (CY); measure curb/sidewalk (LF/SF) as applicable; keep quantity logs for Town verification.

10.5. Asphalt & Concrete Mix Designs. Submit FDOT-approved mix designs when required; do not proceed without approval.

10.6. Structure Adjustments. Adjust inlets, manholes, and utility boxes to finished grade per Town/utility standards.

10.7. Pavement Markings & Signs. Install thermoplastic/paint, RPMs, and signs per MUTCD and Town standards within required timelines.

10.8. Site Restoration. Restore shoulders, driveways, and landscaping affected by work; sweep and clean surfaces.

10.9. As-Builts (when required). Provide redlines/as-built sketches or survey for drainage or grade-critical work when requested.

EXHIBIT "B"

COMPENSATION AND PRICING

☒ following this page (pages 1 through 2)

☐ this exhibit is not applicable

TOWN OF FORT MYERS BEACH
EXHIBIT B - COMPENSATION AND PRICING

Item No.	Description of Work	Unit	Unit Price
A. MOBILIZATION & GENERAL			
A-1	Mobilization (Standard Work Order)	LS	$16,244.00
A-2	Mobilization (Emergency – within 24 hrs of NTP	LS	$16,244.00
A-3	Maintenance of Traffic (MOT) – Standard	Day	$72.05
A-4	Maintenance of Traffic (MOT) – Emergency / After Hours	Day	$327.50
A-5	Pre-Event Training Day (MOT/Emergency Response) – per Section 3.1	Day	*Included*
B. ASPHALT PAVEMENT WORK			
B-1	Asphalt Milling – 1" depth	SY	$2.62
B-2	Asphalt Milling – 1.5" depth	SY	$2.62
B-3	Asphalt Milling – 2" depth	SY	$2.62
B-4	Asphalt Resurfacing – Type SP-9.5 (1" lift)	Ton	$145.61
B-5	Asphalt Resurfacing – Type SP-12.5 (1.5" lift)	Ton	$168.60
B-6	Asphalt Resurfacing – Type SP-12.5 (2" lift)	Ton	$168.60
B-7	Full-Depth Asphalt Reconstruction (includes base	SY	$19.65
B-8	Limerock / Stabilized Base (6" compacted	SY	$24.89
B-9	Limerock / Stabilized Base (8" compacted	SY	$31.44
B-10	Tack Coat	Gal	$1.31
B-11	Prime Coat	Gal	$6.55
B-12	Temporary Cold-Mix Asphalt Patching	Ton	$176.85
B-13	Pothole / Emergency Patching (Hot Mix	Ton	$168.60
C. CONCRETE WORK			
C-1	Concrete Curb & Gutter – Type F (FDOT Index 520)	LF	$33.14
C-2	Concrete Curb & Gutter – Type D / Valley Gutter	LF	$30.26
C-3	Concrete Sidewalk – 4" thick	SF	$6.69
C-4	Concrete Sidewalk – 6" thick	SF	$9.37
C-5	ADA Ramp – Detectable Warning Surface (complete	Each	$1,296.90
C-6	Driveway Apron – Concrete (6" thick)	SF	$9.37
C-7	Concrete Header Curb	LF	$25.94
C-8	Remove & Replace Concrete (Misc.)	SF	$14.24
D. DRAINAGE WORK			
D-1	Storm Inlet – Adjust to Grade	Each	$3,537.00
D-2	Storm Inlet – Remove & Replace (complete	Each	$10,628.03
D-3	Manhole – Adjust to Grade	Each	$1,572.00
D-4	Manhole – Remove & Replace (complete	Each	$13,100.00
D-5	Utility Box / Valve Box – Adjust to Grade	Each	$176.85
D-6	Culvert Pipe Installation (15" – 24" RCP)	LF	$77.29
D-7	Culvert Pipe Installation (24" – 36" RCP)	LF	$95.63
D-8	Culvert End Treatment / Headwall	Each	$8,122.00
D-9	Mitered End Section (15" – 24")	Each	$5,502.00
E. PAVEMENT MARKINGS & SIGNAGE			
E-1	Thermoplastic Striping – 6" solid white/yellow	LF	$14.41
E-2	Thermoplastic Striping – 12" solid (stop bar, crosswalk)	LF	$11.79

E-3	Thermoplastic Pavement Legends/Arrow	Each	$9.17
E-4	Paint Striping – 6" solid white/yellov	LF	$9.17
E-5	Raised Pavement Markers (RPMs)	Each	$104.80
E-6	Traffic Sign – Ground-Mounted (furnish & install	Each	$471.60
E-7	Remove Existing Pavement Marking	LF	$6.55
F. SITE RESTORATION & GENERAL			
F-1	Shoulder Grading / Restoratior	LF	$7.53
F-2	Sodding (Bahia or equivalent	SY	$8.02
F-3	Topsoil & Seeding	SY	$1.73
F-4	Silt Fence (install & maintain)	LF	$4.59
F-5	Street Sweeping / Final Cleanin	Day	$2,882.00
F-6	Haul Milled Asphalt to Town-Designated Locatio	Ton	$15.27
F-7	Disposal of Surplus Material (non-milled	Ton	$21.89
G. TESTING & QUALITY CONTROL			
G-1	Nuclear Density Testing (per FDOT)	Each	$6,998.08
G-2	Asphalt Extraction / Gradation Test	Each	$5,226.90
G-3	Concrete Cylinder Test (set of 4)	Each	$4,704.21
G-4	Independent Lab Testing (pass-through at cost, if Town-directed)	Allow	*T&M*

NOTES & CONDITIONS

1. All unit prices shall include all labor, materials, equipment, transportation, overhead, profit, insurance, bonds, and incidentals necessary to complete each work item.
2. Estimated quantities are provided for evaluation purposes only and do not represent a commitment or guarantee of work
3. No minimum amount of work or compensation is guaranteed under this contract.
4. Prices shall remain firm for the initial contract year. Annual adjustments per Part IV, Section 2 of the ITB.
5. Unlisted work items shall be negotiated at the time of the applicable task order per Part IV, Section 1.
6. All work shall comply with FDOT Standard Specifications (latest edition), MUTCD, ADA/PROWAG, and 2 CFR
7. Pre-Event Training Day (Item A-5) shall be provided at no additional charge per Section 3.1; include $0.00 or
8. Independent Lab Testing (Item G-4) is a pass-through at cost when directed by the Town; enter "T&M" or $0.00 in the
9. Milled asphalt is the property of the Town per Section 6.6; hauling costs shall be included in Item F-6.
10. Davis-Bacon prevailing wage rates apply if federal funds are used. Contractor is responsible for compliance.

EXHIBIT "C"

WORK SCHEDULE

☒ following this page (pages 1 through 3)

☐ this exhibit is not applicable

EXHIBIT "C" - WORK SCHEDULE

This Exhibit "C" establishes the performance deadlines, mobilization requirements, and liquidated damages applicable to work performed under this Agreement. Because this is an on-call, continuing services contract, no single project completion date applies to the Agreement as a whole. Instead, performance deadlines are established on a work-order-by-work-order basis, subject to the standards set forth below and in the Scope of Work (Exhibit "A").

The Town will issue a Notice to Proceed (NTP) and work order for each authorized task. Each NTP shall identify the applicable scope, location, priority level (emergency or standard), and, where required, a specific completion deadline. The deadlines and liquidated damages set forth herein apply to all work orders issued under this Agreement unless expressly modified in writing by the Town.

1. Performance Milestones and Schedule

Ref.	Milestone / Requirement	Calendar Days Allowed	Cumulative Days from NTP	Notes / Conditions
1	Contract Execution / Notice to Proceed (NTP) Issued	N/A	Day 0	Starting point for all subsequent deadlines
2	Emergency Work – Mobilization	1 (24 hours)	Day 1	Within 24 hours of NTP per Section 4.3. $1,000/day LD applies.
3	Standard Work Order – Mobilization	10	Day 10	Within 10 calendar days of NTP per Section 4.3, unless otherwise specified. $1,000/day LD applies.
4	Contractor Representative Report-In	1 (24 hours)	Day 1	Within 24 hours of contract execution per Section 8.1.
5	CSA Management Plan Submission	90	Day 90	Generic CSA plan due within 90 days of contract execution per Section 9.8.
6	Pre-Event Training Day (Annual)	Per season	Annually	Minimum 1 day (up to 8 hrs) per contract year at no charge per Section 3.1.
7	MOT Compliance – Continuous	Ongoing	Ongoing	$1,000/day LD per occurrence per Section 9.10. Immediate hazard may trigger suspension.
8	Substantial Completion of Work Order	Per NTP/ Work Order	Per WO	Per schedule in applicable work order. $1,000/day LD for each day beyond deadline.
9	Punch List Issuance by Town/CEI	5 business days	After SC	Town/CEI issues written punch list within 5

Ref.	Milestone / Requirement	Calendar Days Allowed	Cumulative Days from NTP	Notes / Conditions
				business days of substantial completion per Section 8.6.
10	Punch List Completion by Contractor	14	After PL	All punch list items, site restoration, cleanup, and as-builts completed within 14 calendar days of punch list receipt per Section 8.6. $1,000/day LD applies.
11	Final Completion and Acceptance	Per WO	Per WO	All punch list resolved, site restored, closeout docs accepted. Town issues written final acceptance per Section 8.7. Final payment withheld until issued.
12	Warranty Period	365	1 year from final acceptance	One (1) year from written final acceptance per work order per Section 8.8. Warranty claims responded to within 10 calendar days.

2. Liquidated Damages

The parties agree that actual damages resulting from the failure to meet the performance deadlines set forth herein would be difficult or impossible to ascertain. Therefore, the following liquidated damages are established as a reasonable pre-estimate of the Town's losses and are not a penalty. Liquidated damages shall be assessed as follows and may be deducted from any payment due the Contractor under this Agreement:

Item	Triggering Event	LD Rate	Basis / Notes
i	Failure to mobilize for emergency work within 24 hours of NTP	**$1,000/calendar day**	From hour 25 of NTP until mobilization begins. Town's right to engage alternatives does not waive LD.
ii	Failure to mobilize for standard work within 10 calendar days of NTP	**$1,000/calendar day**	From Day 11 of NTP until mobilization begins, unless a different period is specified in the work order.
iii	Failure to achieve substantial completion by work order deadline	**$1,000/calendar day**	From deadline date until substantial completion. Does not release Contractor from completing remaining work.
iv	Failure to complete punch list items within 14 calendar days of punch list issuance	**$1,000/calendar day**	From Day 15 after punch list receipt until all items, restoration, cleanup, and as-builts accepted.

Item	Triggering Event	LD Rate	Basis / Notes
v	Failure to maintain required MOT per approved traffic control plan, MUTCD, and Town direction	**$1,000/calendar day per occurrence / per site**	Applies per occurrence and per work site. Immediate public safety hazard may also trigger suspension or default.

3. General Conditions for Liquidated Damages

3.1 The assessment of liquidated damages does not release the Contractor from the obligation to complete the work. The Town may pursue both liquidated damages and specific performance.

3.2 The Town shall have the right to retain from any payment due the Contractor an amount sufficient to satisfy any liquidated damages due and owing, including amounts owed on any other contracts between the parties.

3.3 Liquidated damages may be assessed concurrently for separate triggering events (e.g., MOT non-compliance at multiple active sites).

3.4 Liquidated damages shall not apply to delays caused solely by events of Force Majeure as defined in the Agreement, provided the Contractor provides written notice to the Town within 48 hours of the onset of the qualifying event and documents the causal connection between the Force Majeure event and the delay.

3.5 Breach of this Agreement during an emergency recovery period (as defined under Section 252.505, Florida Statutes) shall subject the Contractor to an additional $5,000 penalty plus actual, consequential, or liquidated damages as specified herein.

3.6 Final payment for each work order shall not be processed until the Town has issued written final acceptance per Section 8.7 of Exhibit "A". Liquidated damages assessed shall be deducted from the final payment amount.

EXHIBIT "D"

SUPPLEMENTAL TASK AUTHORIZATION FORM

☒ following this page (pages 1 through 8)

☐ this exhibit is not applicable

TOWN OF FORT MYERS BEACH

SUPPLEMENTAL TASK AUTHORIZATION

X Supplemental Task Authorization NO.: _____

CONTRACT/PROJECT NAME: _____

CONTRACTOR: _____ PROJECT NO.: _____

SOLICIT NO.: _____ CONTRACT NO.: _____

REQUESTED BY: _____ DATE OF REQUEST: _____

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Contractor is authorized to and shall proceed with the following:

EXHIBIT "A"	SCOPE OF SERVICES:	DATED: _____
EXHIBIT "B"	COMPENSATION & METHOD OF PAYMENT:	DATED: _____
EXHIBIT "C"	TIME AND SCHEDULE OF PERFORMANCE:	DATED: _____
EXHIBIT "D"	CONTRACTOR'S ASSOCIATED SUBCONTRACTOR(S):	DATED: _____

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction.

TOWN APPROVAL:

By: _____ By: _____
Department Director Date Contracts Manager Date

By: _____
Town Manager Date

ACCEPTED:

By: _____
Contractor Date

_____

EXHIBIT A

SCOPE OF SERVICES

The following services will be provided:

1:

_____
_____
_____
_____
_____

2:

_____
_____
_____
_____
_____

3:

_____
_____
_____
_____
_____

*Total Cost (of Job): $*_____

EXHIBIT B

COMPENSATION AND METHOD OF PAYMENT FOR

Section 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONTRACTOR for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONTRACTOR should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
TOTAL:				

(Unless list is continued on next page)

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONTRACTOR for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONTRACTOR for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved employee's wage classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated, entitled "CONTRACTOR'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONTRACTOR'S compensation and method of payment is based on an hourly rate for personnel, the CONTRACTOR shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

CONTRACTOR'S PERSONNEL HOURLY RATE SCHEDULE FOR

Contractor or Subcontractor Name: _____

(A separate Attachment No. 1 should be included for each Sub-Contractor)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Standard Rate Schedule as Included with Proposal			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.
**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.
***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Contractor listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS FOR

CONTRACTOR OR SUB-: _____

(A separate Attachment No. 2 should be included for each Sub-Contractor)

ITEM	BASIS OF CHARGE
NOTE: Receipts or in-house logs are required for all non-personnel reimbursable expenses unless exempt (such as meals).	
Administrative Services Fee – Applicable only when specifically authorized by the Town, for administering the procurement of special additional services, equipment, reimbursables etc. not covered under the costs and/or changes established in the Agreement.	

NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

TIME AND SCHEDULE OF PERFORMANCE FOR

This EXHIBIT “C” establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT “A”	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
#1			

EXHIBIT D

CONTRACTOR'S ASSOCIATED SUB-CONTRACTOR(S) AND SUBCONTRACTOR(S) FOR

CONTRACTOR has identified the following Sub-Contractor(s) and/or Subcontractor(s) which may be engaged to assist the CONTRACTOR in providing and performing services and work on this Project:
(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Subcontractor Services are Exempted from Prime Contractor's Insurance Coverage	
					Yes	No

EXHIBIT "E"

FLORIDA STATUTORY REQUIREMENTS

☒ following this page (pages 1 through 5)

☐ this exhibit is not applicable

FLORIDA STATUTORY REQUIREMENTS

1. E-Verify Compliance. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

2. Public records.

a. CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

    1. Keep and maintain public records required by the TOWN to perform the service.
    2. Upon request from the TOWN's custodian of public records, provide the TOWN 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 or as otherwise provided by law.
    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 this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the TOWN.
    4. Upon completion of this Agreement, transfer, at no cost, to the TOWN all public records in possession of CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If CONTRACTOR transfers all public records to the TOWN upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology systems of the TOWN.

b. "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.
c. If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.
d. CONTRACTOR consents to the TOWN's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a

mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by TOWN.

e. CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the TOWN.

f. **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, THE CONTRACTOR MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TOWN HALL
6231 ESTERO BLVD
FORT MYERS BEACH, FL 33931
239-765-0202
FMBPUBLICRECORDS@FMBGOV.COM

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the TOWN harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.0701(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. CONTRACTOR hereby certifies that CONTRACTOR is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. CONTRACTOR further hereby certifies that CONTRACTOR is not engaged in a boycott of

Israel or engaged in business operations in Cuba or Syria. CONTRACTOR understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject CONTRACTOR to civil penalties, attorney's fees, and/or costs. CONTRACTOR further understands that any contract with TOWN for goods or services of any amount may be terminated at the option of TOWN if CONTRACTOR (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of TOWN if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

5. Disclosure Requirements for "Foreign Countries of Concern". CONTRACTOR shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], 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."

6. Public Entities Crime or Convicted Vendor List. CONTRACTOR agrees and assumes a continuous duty to disclose to the TOWN if the CONTRACTOR or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

7. Data Management; Notice of Breach. CONTRACTOR shall cooperate with the TOWN and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the TOWN must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

8. Environmental and Social Government and Corporate Activism. The TOWN has not given preference or requested documentation from the CONTRACTOR based on CONTRACTOR's social, political or ideological interest. CONTRACTOR agrees to similarly not

request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

9. No Coercion for Labor or Services. CONTRACTOR swears under penalty of perjury that CONTRACTOR does not use coercion for labor or services as defined as follows:

"Coercion" means:

i. Using or threatening to use physical force against any person;

ii. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;

iii. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

iv. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

v. Causing or threatening to cause financial harm to any person;

vi. Enticing or luring any person by fraud or deceit; or

vii. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

10. Conflicts. By entering into this agreement, the Contractor represents that it currently is not providing professional services to any third party person or entity on any project or development for which project or development approval is currently pending or proposed or for which an application is being prepared for submittal to the TOWN of Fort Myers Beach for review or approval and further agrees that during the term of this agreement, the Contractor will not provide professional services to any third party person or entity as to any project or development for which development or project approval is pending or proposed or for which an application is being prepared for submittal to the TOWN of Fort Myers Beach for review or approval.

11. **Breach of Agreement for Goods or Services Related to Emergency Response for Natural Disaster Pursuant to Section 252.505, Florida Statutes.** Pursuant to Sec. 252.505, Fla. Stat., if Contractor breaches this agreement during an emergency recovery period (1-year period beginning upon Governor's initial declaration of a natural emergency) Contractor shall pay a $5,000 penalty and damages, which may be either actual and consequential damages or liquidated damages in addition to any other consequential damages or liquidated damages that may otherwise be due under the terms of the agreement.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., CONTRACTOR declares that CONTRACTOR has read the foregoing Paragraph 9 above and that the facts stated in it are true.

CONTRACTOR:

_____

By:_____
Signature

_____
↑Type/print signature and title↑

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2026, by _____ as _____ of _____, a _____ on behalf of _____, and he/she is personally known to me or has produced _____ as identification.

_____
Signature of Notary Public - State of Florida

_____
Printed/Typed/Stamped Name of Notary
My commission expires:

EXHIBIT "I"

AFFIDAVIT REGARDING LABOR AND SERVICES

☒ following this page

☐ this exhibit is not applicable

AFFIDAVIT REGARDING LABOR AND SERVICES

AND CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN PROHIBITED

Effective July 1, 2024, pursuant to § 787.06(13), Florida Statutes, when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services.

Effective January 1, 2024, a governmental entity may not accept a bid on, a proposal for, or a reply to, or enter into, a contract with an entity which would grant the entity access to an individual's personal identifying information unless the entity provides the government with an affidavit signed by an officer or representative under penalty of perjury attesting that the entity does not meet any of the following criteria: (a) the entity is owned by the government of a foreign country of concern; (b) the government of a foreign country of concern has a controlling interest in the entity; or (c) the entity is organized under the laws of or has its principal place of business in a foreign country of concern.

Effective July 1, 2025, when an entity extends or renews a contract with a governmental entity which would grant the entity access to an individual's personal identifying information, the entity must provide the governmental entity with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of the criteria in paragraphs (2)(a)-(c), § 287.138, Florida Statutes.

Nongovernmental Entity's Name:	Persons Services Corp.
Address:	951 Broken Sound Parkway NW, Suite 180 Boca Raton, FL 33487
Phone Number:	954-616-5106
Authorized Representative's Name:	Samantha Vincenty
Authorized Representative's Title:	Regional General Manager
Email Address:	svincenty@personsservices:com

I, Samantha Vincenty (Name of Authorized Representative), as authorized representative attest under penalty of perjury that Persons Services Corp. (Name of Nongovernmental Entity) does not: (1) use coercion for labor or services as defined in § 787.06, Florida Statutes, and (2) the nongovernmental entity is not (a) owned by a government of a foreign country of concern, (b) that a foreign country of concern does not have a controlling interest in the entity, and (c) that the entity is not organized under the laws of or has its principal place of business in a foreign country of concern, all as prohibited under § 287.138, Florida Statutes.

Under penalty of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

(Signature of authorized representative) 4/24/26 Date

STATE OF FLORIDA

COUNTY OF PALM BEACH

Sworn to (or affirmed) and subscribed before me, by means of ☑ physical presence or ☐ online notarization this 24 day of APRIL, 2026, by SAMANTHA VINCENTY (Name of Affiant), who produced his Florida Driver's License as identification

Notary Public State of Florida
Jason A Ottilige
My Commission HH 408103
Expires 6/7/2027

Notary Public

Commission Expires

Personally Known ☑ OR Produced Identification ☐

Type of Identification Produced:

EXHIBIT "J"

OTHER EXHIBITS/ ATTACHMENTS

Description: _____

☐ following this page (pages ____ through ____)

☒ this exhibit is not applicable

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-572**

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO AWARD ITB-26-14-PW TO TIDEWATER LANDSCAPE OF FLORIDA, LLC AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND TIDEWATER LANDSCAPE OF FLORIDA, LLC SUBJECT TO LEGAL REVIEW AND TO EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

The landscaping and irrigation infrastructure of the Town of Fort Myers Beach requires ongoing maintenance and repair due to the demands of coastal environmental conditions. The Town requires a qualified contractor on standby to provide on-call irrigation and landscaping installation, repair, replacement, and maintenance services within Town rights-of-way, parks, facilities, medians, stormwater facilities, and other designated properties. Maintaining functional irrigation systems and healthy landscaping in these areas benefits the community and serves to restore and preserve the aesthetic, environmental, and functional quality of public spaces on Estero Island.

What the action accomplishes:

This action awards ITB-26-14-PW to Tidewater Landscape of Florida, LLC as the lowest responsive and responsible bidder to furnish all labor, supervision, equipment, materials, transportation, and incidentals necessary to provide on-call irrigation and landscaping installation, repair, replacement, and ongoing maintenance services within Town rights-of-way, parks, facilities, medians, stormwater facilities, and other designated properties on Estero Island as directed by the Town of Fort Myers Beach. All work shall be performed in accordance with applicable Florida Green Industries Best Management Practices (GI-BMP), ISA/ANSI A300 tree care standards, ASABE/IA irrigation standards, and, where federal funds are utilized, 2 CFR 200.317–326. No minimum amount of work is guaranteed under this contract.

This action also authorizes the Town Manager to enter into an agreement with Tidewater Landscape of Florida, LLC.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Jeff Hauge, Community Services Director

5. **Background:**

The landscaping and irrigation infrastructure of the Town of Fort Myers Beach has been subject to significant deterioration and damage over time, including impacts from Hurricane Ian and ongoing wear from coastal environmental conditions. The Town of Fort Myers Beach seeks to contract with a qualified Vendor to provide on-call irrigation and landscaping installation, repair, replacement, and ongoing maintenance services within Town rights-of-way, parks, facilities, medians, stormwater facilities, and other designated properties throughout Fort Myers Beach, Florida. Services will be provided on an as-needed basis. No minimum amount of work is guaranteed. Not all tasks will be assigned for all work orders. Services shall include, but are not limited to: irrigation system installation, repair, and replacement; backflow prevention assembly testing, certification, repair, and replacement; smart controller and sensor programming, installation, and seasonal scheduling; landscape installation including trees, palms, shrubs,

groundcovers, seasonal color, and native/Florida-friendly species; turf and sod installation, removal, and establishment; maintenance services including mowing, pruning, fertilization, and integrated pest management; stormwater and specialty area plantings; tree and palm care; maintenance of traffic (MOT) for median and right-of-way work; as-built documentation where required; and emergency irrigation and landscape response.

The Town anticipates the award of one (1) contract as a result of this Invitation to Bid. No minimum amount of work is guaranteed to the Contractor. All work shall be performed in accordance with applicable Florida statutes and codes, Town standards, Florida Green Industries Best Management Practices (GI-BMP), ISA/ANSI A300 tree care standards, ASABE/IA irrigation standards, FDOT Design/Spec Sections applicable to landscaping and irrigation, and ADA/PROWAG where public access is affected. Where federal funds are utilized, work shall additionally comply with 2 CFR 200.317–326 as applicable.

On April 6, 2026, the Town issued ITB-26-14-PW for Irrigation and Landscaping Installation, Repair, and Maintenance. Bids were due on May 6, 2026, at which time the Town received two (2) bids. Upon review, one (1) bid was deemed non-responsive and non-responsible, leaving one (1) responsive and responsible bid for consideration. Bids were publicly opened and read aloud on May 6, 2026, in Town Hall Council Chambers, and tabulated in accordance with the Town of Fort Myers Beach Purchasing Ordinance 26-06. After review of the bid tabulation and responsibility determination, Tidewater Landscape of Florida, LLC was identified as the lowest responsive and responsible Bidder. The Town Manager, after reviewing the bid results, has forwarded this item to the Town Council for consideration during a regularly scheduled meeting. The Town Council is requested to award one (1) contract to Tidewater Landscape of Florida, LLC.

Attachments:
1. NS 26-127, ITB-26-14-PW Landscape and Irrigation Award
2. Exhibit A, Tidewater Landscape of Florida Contract

Financial Impact:

6. **Alternative Action**
Do not award ITB 26-14-PW to Tidewater Landscape of Florida, LLC.

7. **Management Recommendations:**
Award ITB 26-14-PW to Tidewater Landscape of Florida, LLC. as the lowest responsive and responsible bidder.

8. **Recommended Approval:**

Jason Freeman, Deputy Town Clerk / Legislative Liaison	Created/Initiated - 5/29/2026
Jeff Hauge, Community Services Director	Approved - 6/1/2026
Conor Nally, Contracts & Procurement Manager	Approved - 6/1/2026
Joe Onzick, Finance Director	Approved - 6/4/2026
Carolyn Luomala, Acting Controller	Approved - 6/5/2026
nancy stuparich, Town Attorney	Approved - 6/7/2026
Amy Baker, Town Clerk	Approved - 6/8/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-127

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA TO AWARD ITB-26-14-PW FOR IRRIGATION AND LANDSCAPING INSTALLATION, REPAIR, AND MAINTENANCE TO TIDEWATER LANDSCAPE OF FLORIDA, LLC AS THE LOWEST, RESPONSIVE AND RESPONSIBLE BIDDER; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND TIDEWATER LANDSCAPE OF FLORIDA, LLC AND TO EXPEND BUDGETED FUNDS ON BEHALF OF THE TOWN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, on April 6, 2026, the Town issued ITB-26-14-PW for Irrigation and Landscaping Installation, Repair, and Maintenance and bids were due on May 6, 2026, at which time the Town received two (2) bids; and

WHEREAS, upon review, one (1) bid was deemed non-responsive and non-responsible, leaving one (1) responsive and responsible bid for consideration; and

WHEREAS, after review of the bid tabulation and responsibility determination, Tidewater Landscape of Florida, LLC was identified as the lowest responsive and responsible bidder; and

WHEREAS, the Town Manager, after reviewing the bid results, has forwarded this item to the Town Council for consideration during a regularly scheduled meeting; and

WHEREAS, the Town Council is requested to award one (1) contract to Tidewater Landscape of Florida, LLC; and

WHEREAS, it is in the best interest of the Town to contract with Tidewater Landscape of Florida, LLC as provided in the agreement.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby approves the agreement between the Town and

Tidewater Landscape of Florida, LLC in response to ITB-26-14-PW. A copy of the agreement is attached hereto as Exhibit "A".

Section 3. The Town Manager is hereby authorized to execute the Agreement and expend budgeted funds on behalf of the Town.

Section 4. This resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ and seconded by _____, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	____
Scott Safford, Vice Mayor	____
John R. King, Council Member	____
Rebecca Link, Council Member	____
John McLean, Council Member	____

ADOPTED this ____ day of _____ 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

_____
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on _____.

INDEPENDENT CONTRACTOR'S AGREEMENT

THIS INDEPENDENT CONTRACTOR'S AGREEMENT (hereinafter this "Agreement") is made and entered into this ____ day of _____ 2026, by and between the **TOWN OF FORT MYERS BEACH**, a Florida municipal corporation (hereinafter the "TOWN") and TIDEWATER LANDSCAPE OF FLORIDA, LLC, a Florida Limited Liability Company (hereinafter "CONTRACTOR").

WITNESSETH

WHEREAS, the TOWN is a Florida municipal corporation, having a responsibility to provide certain services to benefit the citizens of the TOWN OF FORT MYERS BEACH; and

WHEREAS, the TOWN has the full power and authority to enter into the transactions contemplated by this Agreement; and

WHEREAS, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates.

NOW THEREFORE in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.

2. **Agreement Overview.**

   a. Project Title and Description: Irrigation and Landscaping Installation, Repair, and Maintenance

   b. Procurement Method: Invitation to Bid No. 26-14-PW

   c. External Funding Source(s):

   ☐ State funding (specify): _____

   ☐ Federal funding (specify): _____

   ☐ Other (specify): _____

   ☒ Not Applicable

d. Agreement Type:

☐ ~~Defined Scope Agreement (specified recurrent services, subscriptions, single projects, and specific deliverables)~~

☒ Agreement Utilizing Supplemental Task Authorizations (e.g. Continuing Services Agreement)

e. Term, Time, and Delivery:

☒ This Agreement has a Term of three (3) year(s) beginning on June 15, 2026 and ending on June 14, 2029, and may be renewed for up to two (2) additional Term(s) of one (1) year(s) each, upon agreement of the parties in writing.

☒ CONTRACTOR shall commence work under this Agreement immediately upon receipt by CONTRACTOR of the Notice to Proceed and must complete the work according to the schedule set forth in Exhibit "C". Liquidated damages, if any, will be assessed against CONTRACTOR for late completion as set forth in Exhibit "C".

f. Project Management:

TOWN's Project Manager		CONTRACTOR's Project Manager	
Name:	Jeff Hauge	Name:	Jeffery S. Balyeat
Title:	Director of Community Services	Title:	Owner
Phone:	239-765-0202	Phone:	239-770-5970
Email:	jhauge@fmbgov.com	Email:	jeff@tidewaterlandscapefl.com

g. Notice Addresses:

TOWN: Fort Myers Beach Town Council, Attn: Town Manager, 6231 Estero Blvd, Fort Myers Beach, Florida 33931

CONTRACTOR: TideWater Landscaping of Florida, LLC, Attn: Jeffery S. Balyeat, 1326 Kingswood Ct Fort Myers, FL 33919

h. Exhibits: The Parties shall comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated herein by reference:

☒	Exhibit "A"	Scope of Work
☒	Exhibit "B"	Compensation and Pricing
☒	Exhibit "C"	Work Schedule
☒	Exhibit "D"	Supplemental Task Authorization Form

☒	Exhibit “E”	Florida Statutory Requirements
☐	Exhibit “F”	Attachment 8: Federal Regulations and Terms (Federal)
☐	Exhibit “G”	Additional Terms for State-Funded Agreements (_____)
☐	Exhibit “H”	Plans/Specifications/Shop Drawings
☒	Exhibit “I”	Affidavit Regarding Labor and Services
☐	Exhibit “J”	Other (Specify): _____
☐	Exhibit “K”	Other (Specify): _____
☐	Exhibit “L”	Other (Specify): _____

i. ~~Additional Provisions:~~

_____
_____
_____
_____
_____
_____

3. Description of Work.

a. The TOWN hereby retains CONTRACTOR to furnish goods and/or services as described in the Scope of Work, which is attached hereto as Exhibit "A" and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" will be resolved in favor of the body of this Agreement.

b. CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Work, unless specifically excluded.

c. CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the TOWN, together with any addenda, hereinafter the “Bid Documents, as applicable.” The Bid Documents, if applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.

4. Supplemental Task Authorizations. The provisions of this paragraph only apply if “Agreement Utilizing Supplemental Task Authorizations” is checked in paragraph 2(d) (“Agreement Type”) above.

a. This Agreement anticipates a variety of projects being requested by the TOWN to be provided by the CONTRACTOR as determined necessary by the TOWN.

b. All work to be performed by CONTRACTOR under this Agreement shall be authorized in writing by the TOWN. Such authorization will be referred to as a “Supplemental Task Authorization” and shall reference this Agreement as the “Master Agreement”.

Supplemental Task Authorizations shall be in a form substantially similar to the form attached hereto as Exhibit “D” (if selected above in paragraph 2(k)).

c. Supplemental Task Authorizations shall contain a description of the work to be undertaken, a budget amount of the fee to be paid, and a time schedule.

d. Supplemental Task Authorizations may contain additional provisions specific to the authorized work for the purpose of expanding upon certain aspects of this Agreement pertinent to the work to be undertaken. Such supplemental instruction or provision shall not be construed as a modification to this Agreement.

e. When CONTRACTOR and the TOWN enter into a Supplemental Task Authorization wherein the term of the Supplemental Task Authorization expires on a date that is later than the date that this Agreement expires, the CONTRACTOR and the TOWN agree that the terms of this Agreement are automatically extended until the expiration or full completion of the requirements of the Supplemental Task Authorization has been performed. Cancellations by the TOWN of any remaining work prior to the full completion of the requirements of the Supplemental Task Authorization shall cause the terms of this Agreement to terminate at the same time. This provision shall only apply when the expiration of the Supplemental Task Authorization extends beyond the expiration of this Agreement. It does not apply when a Supplemental Task Authorization expires or is canceled prior to the expiration of this Agreement.

5. Payment.

a. The TOWN agrees to compensate CONTRACTOR, for work actually authorized and performed under this Agreement, at the rate or basis described in Exhibit "B", which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Work, but in no event will CONTRACTOR be paid more than the negotiated amount(s) set forth in Exhibit "B".

b. Payments shall be made in accordance with the Florida Local Government Prompt Payment Act in accordance with the payment schedule provided in Exhibit “B”.

c. Progress payments, if any, will be made as set forth in Exhibit "B".

d. The TOWN reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR’s obligations. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.

6. Project management. The Project Managers for this project are set forth above in paragraph 2 (“Agreement Overview”). Any subsequent changes to the Project Manager for either party may be provided by notice as described in paragraph 7 (“Notices”) below and does not require an amendment to this Agreement.

7. **Notices.** All notices to the parties under this Agreement must be in writing and sent certified mail to the addresses set forth above in paragraph 2 ("Agreement Overview").

8. **Termination.**

   a. Termination at Will: This Agreement may be terminated by the TOWN in whole or in part at any time without cause by the TOWN giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

   b. Termination for Cause: This Agreement may be terminated by either party for cause by the TOWN or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

9. **General Provisions.** CONTRACTOR must comply with the following general provisions:

   a. Warranty. CONTRACTOR guarantees to repair, replace or otherwise make good to the satisfaction of the TOWN any defect in workmanship or material appearing in the work; and further guarantees the successful performance of the work for the service intended. Neither inspection nor payment, including final payment, by the TOWN will relieve CONTRACTOR from its obligations to do and complete the work in accordance with this Agreement. If the TOWN deems it inexpedient to require CONTRACTOR to correct deficient or defective work, the TOWN may make an equitable deduction from the contract price, or, in the alternative, the TOWN may seek damages. CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the TOWN) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the TOWN in writing if it appears, in CONTRACTOR's professional judgement that the data or information provided by the TOWN for use in CONTRACTOR's work product is incomplete, defective, or unreliable. CONTRACTOR guarantees to amend, revise, or correct to the satisfaction of the TOWN any error appearing in the work as a result of CONTRACTOR's failure to comply with the warranties and representations contained herein.

   b. Bond. If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the TOWN, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the TOWN to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the TOWN. The TOWN will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to

CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the TOWN.

c. Insurance.

i. CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the TOWN from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.

ii. The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:

1. ■ **Commercial General Liability:** Coverage shall have minimum limits of **$** 1,000,000 Per Occurrence, **$** 2,000,000 aggregate for Bodily Injury Liability and Property Damage Liability. The General Aggregate Limit shall be endorsed to apply per project. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.

2. ■ **Business Auto Liability:** Coverage shall have minimum limits of **$** 1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include: Owned Vehicles, Hired and Non-Owned Vehicles and Employee Non-Ownership.

3. ■ **Workers' Compensation:** Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The coverage must include Employers' Liability with a minimum limit of **$** 1,000,000 for each accident.

4. ☐ ~~**Professional Liability:** Shall be maintained by the Contractor to ensure its legal liability for claims arising out of the performance of professional services under this Agreement. Contractor waives its right of recovery against the Town as to any claims under this insurance. Such insurance shall have limits of not less than **$** _____ each claim and aggregate.~~

5. ☐ ~~**Cyber Liability:** Coverage shall have minimum limits of **$** _____ per claim.~~

6. ☒ Umbrella/Excess Liability: Coverage shall have minimum limits of **$** 3,000,000 per claim/Occurrence

7. ☐ _____: Coverage shall have minimum limits of **$** _____ per claim/Occurrence.

8. ☐ _____: Coverage shall have minimum limits of $ _____ per claim/Occurrence.

iii. CONTRACTOR must furnish the TOWN with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The TOWN is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the TOWN before commencement of any work activities.

iv. The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self–insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

d. Compliance with Federal, State, and Local Laws. CONTRACTOR and CONTRACTOR's agents shall comply with all federal, state and local regulations, including those now in effect and hereafter adopted, and including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements.

e. Personal nature of Agreement; Assignment.

1. The parties acknowledge that the TOWN places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the TOWN.

2. If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the TOWN Project Manager

prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.

f. Independent contractor.

1. CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the TOWN. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the TOWN. None of the benefits, if any, provided by the TOWN to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the TOWN to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the TOWN and is subject to the TOWN's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The TOWN will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.

2. CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.

3. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

g. Indemnification.

1. CONTRACTOR must indemnify and hold the TOWN harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the TOWN, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR must

further indemnify the TOWN against any claim that any product purchased or licensed by the TOWN from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the TOWN by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the TOWN and not considered to be the TOWN's exclusive remedy.

2. In the event that any claim in writing is asserted by a third party which may entitle the TOWN to indemnification, the TOWN must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the TOWN decides to participate in the proceeding or defense, the TOWN will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.

3. The indemnification provisions of this paragraph will survive the termination of this Agreement.

h. Sovereign Immunity. Nothing in this Agreement extends, or will be construed to extend, the TOWN's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the TOWN to be sued by third parties in any matter arising out of this Agreement.

10. Miscellaneous Provisions. The following miscellaneous provisions apply to this Agreement:

a. **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.

b. **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the TOWN staff do not suffice to legally bind the TOWN in a

contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized TOWN representatives.

c. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.

d. **Non-appropriation.** TOWN's performance and obligation to pay under this Agreement is contingent upon an appropriation during the TOWN's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the TOWN Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the TOWN subject to the TOWN paying all invoices for services rendered during the period the Agreement was funded by appropriations.

e. **Taxes.** The TOWN shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the TOWN is exempt from same by Florida law, including but not limited to any sales or use tax.

f. **Severability**. If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.

g. **Construction**. If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.

h. **Headings**. All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.

i. **Waiver**. The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the TOWN's rights under this Agreement,

or of any cause of action the TOWN may have arising out of the performance of this Agreement.

j. **Force Majeure**. Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Work" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.

k. **Law; Venue.** This Agreement is being executed in Lee County, Florida and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Lee County, Florida.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective the date first written above.

ATTEST:

By: _____

Dated: _____

(SEAL)

TOWN OF FORT MYERS BEACH, FLORIDA

By: _____

Dan Allers, Mayor

Contractor's Witnesses:

_____
Contractor's First Witness

_____
↑Type/print witness name↑

_____
Contractor's Second Witness

_____
↑Type/print witness name↑

TIDEWATER LANDSCAPE OF FLORIDA, LLC
Contractor

By:_____
Signature

_____
↑Type/print signature and title↑

Approved as to Form and Legality:

_____
Town Attorney

_____
Print Name

EXHIBIT "A"

SCOPE OF WORK

☒ following this page (pages 1 through 6)

☐ this exhibit is not applicable

EXHIBIT "A" – SCOPE OF SERVICES

1. General Scope of Work

1.1. The Vendor will provide on-call irrigation and landscaping installation, repair, replacement, and ongoing maintenance services within Town rights-of-way, parks, facilities, medians, stormwater facilities, and other designated properties. Services will be provided on an as-needed basis. Not all tasks will be assigned for all events or work orders. Types of work include:

- Irrigation system installation, repair, and replacement (potable and reclaimed)
- Backflow prevention assembly testing, certification, repair, and replacement
- Smart controller and sensor programming, installation, and seasonal scheduling
- Landscape installation (trees, palms, shrubs, groundcovers, seasonal color, native/Florida-friendly species)
- Turf and sod installation, removal, and establishment (St. Augustine, Bahia, Bermudagrass, or as specified)
- Maintenance services (mowing, pruning per ANSI A300, fertilization per GI-BMP, IPM, mulching)
- Stormwater and specialty area plantings (littoral shelves, salt/surge-tolerant species, medians)
- Tree and palm care (ISA/ANSI A300 compliant)
- Maintenance of Traffic (MOT) for median and ROW work
- As-built documentation where required
- Emergency irrigation and landscape response

1.2. All work under this Agreement shall be performed in accordance with applicable Florida statutes and codes, Town standards, Florida Green Industries Best Management Practices (GI-BMP) for Protection of Water Resources, ISA/ANSI A300 tree care standards, ASABE/IA irrigation standards, FDOT Design/Spec Sections applicable to landscaping and irrigation, ADA/PROWAG (where public access is affected), and, where federal funds are used, with 2 CFR 200.317–326 as updated and where applicable.

2. Definitions

Contractor / Firm – The successful Bidder.
Town's Horticulture/CEI/Inspector – The Town's representative(s) or designee providing inspection and administrative services.
Irrigation System – Meters, backflow assemblies, mainline/laterals, valves/solenoids, wiring, controllers, sensors, heads/emitters.
GI-BMP – Florida Green Industries Best Management Practices.
IPM – Integrated Pest Management.
Establishment Period – Time defined by the Town for enhanced watering/care after installation.
MOT – Maintenance of Traffic, compliant with MUTCD standards.

3. Contractor Responsibility & Additional Scope Conditions

3.1. Contractor(s) may be called upon for routine and emergency services and shall provide annually one (1) day (up to 8 hours) of on-site training at no additional charge covering irrigation audits, smart controller programming, GI-BMP, and hurricane/storm landscape readiness.

3.2. Contractor shall provide technical guidance and consultation before, during, and after work orders. Contractor shall provide trained management staff, field supervisors, certified irrigation technicians, licensed backflow testers/repairers, licensed pesticide applicators, ISA Certified Arborists (or supervised crews), and all associated vehicles, equipment, tools, and supplies necessary to fulfill the work.

3.3. The Contractor shall be responsible for knowledge and compliance with all federal, state, and local laws, rules, practices, and regulations. The Contractor shall be familiar with the Town's standards.

3.4. No guarantee is expressed or implied as to the quantity of services to be procured; no work is guaranteed.

4. Initiating Contract When Work is Authorized

4.1. The Town will issue a Notice to Proceed (NTP) and work order/task authorization delineating scope, location(s), priority, and any special requirements.

4.2. Upon NTP, the Contractor shall begin pre-work preparations, including controller/program submittals, plant lists/substitutions, irrigation zone maps (if available), backflow coordination, utility locates, water restrictions, and scheduling.

4.3. The Contractor shall have a maximum of 24 hours from NTP to mobilize and begin emergency response; standard work orders shall mobilize within 10 calendar days unless otherwise specified.

4.4. Contractor shall determine methods and means to execute the work in compliance with Town direction and approved submittals. Material quantities (e.g., plants, mulch, sod SF; pipe LF; heads/valves each; controller count) must be properly documented.

4.5. For activities requiring staging areas, the Contractor shall assist the Town in identifying suitable sites and establishing site plans and operations.

5. Relationship Between Town's Inspector & Contractor

5.1. The Town's representatives will provide inspection, measurement, and administrative services as needed to meet quality standards and funding requirements. Contractor must work with various documentation systems.

5.2. Prior to each growing season, the Contractor shall meet with the Town to finalize and test processes for inspection, documentation, daily reporting, pay quantities, testing, and establishment/maintenance expectations.

5.3. Contractor shall fully cooperate with the Town. All operations must be documented using daily work reports, quantity sheets, delivery slips, batch/tickets, irrigation tests/audits, and planting records.

6. Scope of Work – Description of Services

Contractor shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services to execute, complete and deliver irrigation and landscaping work, including:

Irrigation System Work: potable/reclaimed connections; meters; backflow prevention (test, certify, repair/replace); mainline/laterals; isolation and control valves; wiring and splices; controllers (ET/smart, flow sensors, rain/moisture sensors); heads (rotor, spray, MP rotator), drip/subsurface drip; pressure regulation; audits and precipitation rate balancing; zone mapping; as-found/as-built diagrams.

Landscape Installation: trees, palms, shrubs, groundcovers, ornamental grasses, seasonal color, native/Florida-friendly species; soil prep; compost/topsoil; mulch; staking/guying; irrigation tie-in and establishment watering.

Turf & Sod: removal, grading, topsoil, sod supply/installation (St. Augustine, Bahia, Bermudagrass, or as specified), hydroseeding (if directed), edging, and establishment.

Maintenance: pruning to ANSI A300; fertilization per GI-BMP; IPM (insects/disease/weed control); mulching; litter/debris removal; mowing/edging and trimming; irrigation checks, leak/repair response, seasonal scheduling.

Stormwater & Specialty Areas: plantings at swales and ponds (littoral shelves), salt/surge-tolerant species; landscape

around signs/monuments; median/ROW safety maintenance.

Emergency Response: irrigation repairs after main breaks; hazardous tree/limb response (as authorized); hurricane debris clearance from landscaped areas; temporary irrigation to preserve plant material.

Testing & Quality Control: irrigation audits, backflow certifications, soil tests, plant material acceptance per Florida Grades and Standards.

As-Builts/Closeout Documentation when required.

Contracted services shall only be performed when requested and as designated by the Town via a Notice to Proceed.

6.1. Emergency Response. If directed, Contractor shall provide immediate hazard mitigation, including valve shutoffs, electrical isolation, temporary caps/repairs, barricading unsafe areas, and temporary irrigation to preserve plant material.

6.2. Right-of-Way (ROW) Work Limits. Contractor shall maintain work within Town ROW unless otherwise authorized (e.g., private tie-ins). Care shall be taken to avoid damage; damages shall be addressed per Section 9.4.

6.3. Private Property Access (if Authorized). When authorized, Contractor may perform driveway/landscape tie-ins on private property with Town-secured permissions.

6.4. Demolition/Removal (if Authorized). Contractor shall remove/replace failed irrigation/plant materials and hardscape as designated by the Town.

6.5. Submittals. Contractor shall submit controller models, sensor types, valve/pipe specifications, wiring methods, plant lists with sizes and FL Grades and Standards, sod species/cultivar, fertilizer/chemical labels, and safety data sheets; no substitutions without approval.

6.6. Material Ownership. Unless directed otherwise, surplus materials are the Contractor's responsibility; dispose lawfully. Town may direct salvage/retention (e.g., controllers).

6.7. Technical Assistance & Community Coordination. Contractor shall support public outreach efforts when requested (e.g., watering schedules, lane closures for median work).

6.8. Production/Service Rates. Contractor shall sequence and resource work to meet Town-directed schedules; maintain capacity for routine service calls within 72 hours and emergency calls within 24 hours.

6.9. Environmental Controls. Protect water quality; comply with reclaimed water signage/standards; manage washout and chemical storage; prevent overspray onto roads/sidewalks.

6.10. Specialized Crews. Provide dedicated tree crews (ISA-supervised), spray/fertilization crews (licensed), and irrigation technicians on request.

7. Performance of Services

7.1. Perform in a professional and workmanlike manner per applicable standards and Town direction.

7.2. Contractor bears all operating costs, permits, licensing, testing fees, and equipment maintenance.

7.3. Sub-Contractors. Allowed; Contractor is responsible for their acts/omissions.

7.4. Quality unacceptable to the Town may be rejected; rework shall be performed at no cost to the Town.

8. Standards of Performance

8.1. Contractor Representative. Report within 24 hours of contract execution; remain local during operations; provide progress reports as requested.

8.2. Mobilization. For emergency work: mobilize within 24 hours of NTP. For standard work: within 10 days unless otherwise directed. Maintain sufficient resources to service multiple sites concurrently.

8.3. Time to Complete. Use all efforts to complete work as soon as feasible and within schedules set by the Town.

8.4. Completion of Work. Ensure systems are functional, zones audited and balanced, controller schedules loaded (seasonally appropriate), landscaped areas clean, graded, and mulched; punch list closed.

8.5. Substantial Completion. Substantial completion of a work order shall be achieved when all contract work items within the work order limits have been completed such that the irrigation system is operational, landscape installation is complete, and the site may be safely returned to normal public use, as determined by the Town or its Inspector. Minor punch list items, establishment period obligations, final site restoration, and closeout documentation may remain outstanding at the time of substantial completion. The Town shall issue written notification of substantial completion to the Contractor upon its determination that this standard has been met.

8.6. Punch List. Within five (5) business days following the Town's determination of substantial completion, the Town or its Inspector shall issue a written punch list identifying all remaining deficiencies, incomplete items, and required site restoration. The Contractor shall complete all punch list items, site restoration, final cleanup, and as-built documentation (where required pursuant to Section 10.9) within fourteen (14) calendar days of receipt of the punch list, unless a different timeframe is authorized by the Town in writing. Failure to complete punch list items within this period shall subject the Contractor to liquidated damages as specified in the Liquidated Damages provision of this Solicitation.

8.7. Final Completion and Acceptance. Final completion of a work order shall be achieved when all punch list items have been resolved, all site restoration has been completed, and all required closeout documentation (including as-built documentation where applicable) has been submitted to and accepted by the Town. The Town shall issue written notification of final acceptance to the Contractor. Final payment for the work order, less any liquidated damages, shall not be processed until the Town has issued written final acceptance.

8.8. Warranty. The Contractor shall warrant all work, materials, and workmanship against defects for a period of one (1) year from the date of the Town's written final acceptance of each work order. During the warranty period, the Contractor shall, at no additional cost to the Town, repair or replace any work found to be defective in materials or workmanship, including but not limited to irrigation system failures, plant material die-off attributable to improper installation or establishment care, turf failure, or drainage deficiencies attributable to the Contractor's work. The Contractor shall respond to warranty claims within ten (10) calendar days of written notification by the Town and shall complete warranty repairs within a timeframe agreed upon by the Town. This warranty is separate from and in addition to any establishment period obligations specified in the work order and does not limit any other warranties or remedies available to the Town under applicable law.

9. General Responsibilities

9.1. Town Obligations. Provide NTP, scope, and points of contact; issue PSAs as needed.

9.2. Contractor's Conduct of Work. Maintain courteous, safe, and minimally disruptive operations; adhere to Town Code of Ethics.

9.3. Supervision. Provide qualified supervisors with authority to act; ensure adequate supervision across concurrent sites.

9.4. Damages by Contractor. Contractor is responsible for all damages due to its operations (e.g., utilities, pavements, structures, property, trees); must repair promptly at no cost and secure releases; maintain a Damage Log; unresolved damages may lead to cost withholding.

9.5. Duty Regarding Other Contractors. Do not interfere with other Town or utility contractors.

9.6. Disposal. Dispose of waste materials lawfully at approved locations; furnish receipts/tickets as required.

9.7. Staging Areas. Contractor to propose and manage staging areas with Town approval, including site setup, operations, and remediation.

9.8. Staging & Environmental Protection Plan. Within 90 days of contract execution, provide generic staging and environmental plan; for each staging area used, submit a scaled plan showing access, traffic control, safety, chemical handling, spill response, stormwater controls, and restoration plan.

9.9. Testing & QC. Perform irrigation audits (distribution uniformity, precipitation, zone pressure), backflow certifications, soil tests (if directed), and plant material acceptance (Florida Grades and Standards). Third-party testing may be required; costs may be passed through if Town-directed.

9.10. MOT & Traffic Control. Provide and maintain MOT per MUTCD and Town direction for median and right-of-way work.

9.11. Safety. Comply with OSHA; provide PPE; trenching/shoring where applicable; lock-out/tag-out for electrical controllers.

9.12. Workdays/Hours. Construction may occur 30 minutes before sunrise to 30 minutes after sunset, 7 days/week, unless prohibited; night work may be authorized by the Town.

9.13. Inspection & Access. All work subject to inspection by the Town and authorities; provide access to records and sites.

9.14. Retention of Equipment. Maintain sufficient equipment/crews to meet schedule; equipment removed prior to completion must be replaced with equal or better unless Town approves downsizing.

10. Scope of Services – Detail

10.1. Geographic Assignment. Work is limited to properties within Town jurisdiction unless otherwise directed.

10.2. Phasing. Town may direct phasing by area/zone; establishment period and maintenance windows will be specified.

10.3. Operation of Equipment. Maintain equipment leak-free; control overspray and debris; protect pedestrians/traffic; post reclaimed water signage where required.

10.4. Measurement & Certification. Measure and document quantities: plants (each), sizes (caliper/height/FTG), sod (SF/SY), mulch (CY), irrigation pipe (LF), wiring (LF), valves/heads/controllers (each), backflow tests (each), audits (each/site), fertilization/chemical applications (per acre or per 1,000 SF).

10.5. Controllers & Programming. Provide controller schedules per season; integrate ET/rain sensors;

deliver as-built zone charts.

10.6. Backflow Prevention. Test and certify on installation and annually (or as required); submit certificates.

10.7. Tree & Palm Work. Follow ANSI A300 and Florida Grades and Standards; proper planting depth, staking/guying/removal; hurricane-resilient pruning; root flare exposure; no lion-tailing or topping.

10.8. Establishment & Warranty. Provide establishment watering and care for durations specified in work orders; minimum plant warranty one (1) year and sod 90 days unless otherwise specified. Warranty periods shall commence upon the Town's written final acceptance of the applicable work order (not upon substantial completion). Where an establishment period extends beyond final acceptance, the warranty period shall run concurrently with the establishment period. Replace dead/declining materials not caused by vandalism or off-spec conditions outside Contractor control.

10.9. Site Restoration. Restore grades, turf, mulch rings, and surfaces, clean hardscape.

10.10. As-Builts. Provide redlines/as-built diagrams of irrigation (valves, wire paths, mainlines, meter/backflow, controller locations, zone maps) and plant plans as requested.

11. Reports, Certifications, and Documentation

11.1. Daily Work Reports. Show locations, activities, crews/equipment, quantities, tests (pressure, DU, backflow), controller settings, and issues.

11.2. Tickets & Certifications. Deliveries (plants, mulch, sod), backflow test certificates, audit results, chemical/fertilizer application logs (labels/rates), and warranty lists.

11.3. Weekly Summaries. Provide weekly summaries if requested.

11.4. Final Closeout. Provide quantity summary, test records, warranties, establishment plan/schedule, and as-builts (if required) within 30 days of each work order completion.

EXHIBIT "B"

COMPENSATION AND PRICING

☒ following this page (pages 1 through 4)

☐ this exhibit is not applicable

TOWN OF FORT MYERS BEACH

EXHIBIT B — COMPENSATION AND PRICING

Item	Description	Unit	Unit Price
CATEGORY A — IRRIGATION (CORE SERVICES)			
Meters & Connections			
A-1	Water meter installation — ¾" potable	EA	$1,215.00
A-2	Water meter installation — 1" potable	EA	$1,675.00
A-3	Water meter installation — 1½" potable	EA	$4,780.00
A-4	Water meter installation — 2" potable	EA	$6,055.00
A-5	Reclaimed water connection/tie-in	EA	$2,450.00
Backflow Prevention			
A-6	Backflow preventer — test and certify (annual)	EA	$175.00
A-7	Backflow preventer — repair (minor/rebuild)	EA	$580.00
A-8	Backflow preventer — replace ¾" – 1" RPZ/DCVA	EA	$2,050.00
A-9	Backflow preventer — replace 1½" – 2" RPZ/DCVA	EA	$6,300.00
Mainline & Lateral Pipe			
A-10	PVC mainline — ¾" SCH 40 (supply & install)	LF	$5.00
A-11	PVC mainline — 1" SCH 40 (supply & install)	LF	$6.50
A-12	PVC mainline — 1½" SCH 40 (supply & install)	LF	$6.75
A-13	PVC mainline — 2" SCH 40 (supply & install)	LF	$7.70
A-14	PVC mainline — 3" SCH 40 (supply & install)	LF	$11.55
A-15	PVC mainline — 4" SCH 40 (supply & install)	LF	$16.50
A-16	Lateral line — ½" poly/funny pipe (supply & install)	LF	$1.50
A-17	Lateral line — ¾" poly (supply & install)	LF	$2.00
A-18	Pipe repair/splice (any size, in-place)	EA	$100.00
Valves & Valve Boxes			
A-19	Electric control valve — ¾" (supply & install)	EA	$150.00
A-20	Electric control valve — 1" (supply & install)	EA	$150.00
A-21	Electric control valve — 1½" (supply & install)	EA	$513.00
A-22	Electric control valve — 2" (supply & install)	EA	$396.00
A-23	Isolation/gate valve (supply & install)	EA	$594.00
A-24	Valve box — standard (supply & install)	EA	$48.00
A-25	Valve box — jumbo (supply & install)	EA	$213.00
Wiring & Splices			
A-26	Irrigation wire — 18 AWG UF (supply & install)	LF	$2.00
A-27	Irrigation wire — 14 AWG UF (supply & install)	LF	$1.50
A-28	Wire splice / waterproof connector	EA	$3.00
Controllers & Sensors			
A-29	Smart/ET controller — supply & install (up to 12 stations)	EA	$2,790.00
A-30	Smart/ET controller — supply & install (13–24 stations)	EA	$6,177.00
A-31	Smart/ET controller — supply & install (25+ stations)	EA	$9,177.00
A-32	Rain sensor — supply & install	EA	$120.00

A-33	Soil moisture sensor — supply & install	EA	$330.00
A-34	Flow sensor — supply & install	EA	$3,093.00
A-35	Controller programming / seasonal adjustment (per controller)	EA	$500.00
Heads, Nozzles & Emitters			
A-36	Spray head — pop-up 4" (supply & install)	EA	$12.54
A-37	Spray head — pop-up 6" (supply & install)	EA	$57.81
A-38	Rotor head (supply & install)	EA	$31.00
A-39	MP rotator nozzle (supply & install)	EA	$18.00
A-40	Drip emitter line (supply & install)	LF	$1.00
A-41	Subsurface drip line (supply & install)	LF	$1.90
A-42	Pressure regulator (supply & install)	EA	$201.00
Audits & Documentation			
A-43	Irrigation audit (per site/system)	EA	$800.00
A-44	Zone mapping / as-found diagram	EA	$1,200.00
A-45	As-built irrigation diagram	EA	$1,900.00

CATEGORY B — LANDSCAPE INSTALLATION			
Trees & Palms			
B-1	Shade tree — 2" caliper (supply & install)	EA	$405.00
B-2	Shade tree — 3" caliper (supply & install)	EA	$1,125.00
B-3	Shade tree — 4" caliper (supply & install)	EA	$1,425.00
B-4	Ornamental tree — 8-10 ft ht (supply & install)	EA	$555.00
B-5	Palm — 8-10 ft CT (supply & install)	EA	$800.00
B-6	Palm — 12-14 ft CT (supply & install)	EA	$1,120.00
B-7	Palm — 16+ ft CT (supply & install)	EA	$1,280.00
B-8	Tree/palm staking and guying	EA	$120.00
B-9	Tree/palm removal and disposal (up to 12" DBH)	EA	$800.00
B-10	Tree/palm removal and disposal (over 12" DBH)	EA	$1,200.00
Shrubs, Groundcovers & Seasonal Color			
B-11	Shrub — 3 gal (supply & install)	EA	$26.00
B-12	Shrub — 7 gal (supply & install)	EA	$62.00
B-13	Shrub — 15 gal (supply & install)	EA	$135.00
B-14	Groundcover — 1 gal (supply & install)	EA	$8.25
B-15	Groundcover — 4" pot / flat (supply & install)	EA	$8.25
B-16	Ornamental grass — 3 gal (supply & install)	EA	$26.00
B-17	Seasonal color / annual — 4" pot (supply & install)	EA	$8.25
B-18	Native/Florida-friendly species — 3 gal (supply & install)	EA	$26.00
B-19	Salt/surge-tolerant species — 3 gal (supply & install)	EA	$26.00
B-20	Littoral shelf planting — 1 gal (supply & install)	EA	$9.50
Soil, Mulch & Site Preparation			
B-21	Mulch — hardwood/cypress (supply & install)	CY	$69.00
B-22	Mulch — pine bark/pine straw (supply & install)	CY	$125.00
B-23	Topsoil (supply & install)	CY	$165.00
B-24	Compost/soil amendment (supply & install)	CY	$165.00

B-25	Plant bed preparation (grading, soil prep)	SF	$2.00
B-26	Plant removal and disposal	EA	$9.00
Sod & Turf			
B-27	Sod — St. Augustine Floratam (supply & install)	SF	$1.25
B-28	Sod — Bahia (supply & install)	SF	$1.10
B-29	Sod — Bermudagrass (supply & install)	SF	$1.45
B-30	Sod removal and disposal	SF	$0.75
B-31	Hydroseeding (supply & install)	SF	$1.00
B-32	Fine grading for sod installation	SF	$0.50
Establishment & Warranty			
B-33	Plant establishment watering (per visit per site)	EA	$15.00
B-34	Sod establishment watering (per visit per site)	EA	$15.00

CATEGORY C — MAINTENANCE & ARBORICULTURE			
Mowing, Edging & General Maintenance			
C-1	Mowing and edging (per acre)	AC	$200.00
C-2	String trimming / detail edging (per acre)	AC	$200.00
C-3	Litter and debris removal (per acre)	AC	$200.00
C-4	Mulch replenishment / top-dress (supply & install)	CY	$69.00
Pruning & Arboriculture			
C-5	Shrub/hedge pruning (per hour, 2-person crew)	HR	$150.00
C-6	Tree pruning — ANSI A300 Class 1 (Fine) per tree	EA	$300.00
C-7	Tree pruning — ANSI A300 Class 2 (Standard) per tree	EA	$300.00
C-8	Tree pruning — ANSI A300 Class 3 (Hazard) per tree	EA	$300.00
C-9	Palm pruning (per tree)	EA	$75.00
C-10	Hurricane-resilient pruning (per tree)	EA	$95.00
C-11	Stump grinding (per stump, up to 24" diameter)	EA	$450.00
Fertilization & Chemical Applications			
C-12	Fertilization — turf (per 1,000 SF per application)	1K SF	$21.00
C-13	Fertilization — shrub/groundcover beds (per 1,000 SF)	1K SF	$18.50
C-14	Fertilization — palm/tree (per tree deep-root)	EA	$64.00
C-15	Herbicide application — pre-emergent (per 1,000 SF)	1K SF	$11.00
C-16	Herbicide application — post-emergent (per 1,000 SF)	1K SF	$11.00
C-17	Insecticide/fungicide application (per 1,000 SF)	1K SF	$9.00
C-18	IPM inspection and treatment (per site visit)	EA	$625.00
Irrigation Maintenance			
C-19	Irrigation seasonal inspection and adjustment (per system)	EA	$450.00
C-20	Irrigation repair — service call (first hour)	EA	$300.00
C-21	Irrigation repair — additional hours	HR	$95.00
C-22	Irrigation leak detection and repair	EA	$500.00
Storm Preparation & Post-Storm			
C-23	Storm prep — secure/protect landscape (per hour, crew)	HR	$350.00
C-24	Post-storm landscape restoration (per hour, crew)	HR	$500.00
C-25	Emergency irrigation response (per hour, crew)	HR	$350.00

C-26	Hazardous tree/limb removal — emergency (per hour, crew)	HR	$500.00

CATEGORY D — SPECIALTY & EQUIPMENT			
Specialty Services			
D-1	Vacuum excavation / potholing	HR	$350.00
D-2	Directional boring — up to 2" (per LF)	LF	$30.00
D-3	Directional boring — 3" to 4" (per LF)	LF	$60.00
D-4	Utility locating (per hour)	HR	$150.00
D-5	MOT / traffic control setup and maintenance (per day)	DAY	$1,500.00
Equipment Rates			
D-6	Bucket truck with operator (per hour)	HR	$500.00
D-7	Stump grinder with operator (per hour)	HR	$225.00
D-8	Skid steer with operator (per hour)	HR	$225.00
D-9	Trencher with operator (per hour)	HR	$225.00
D-10	Mini excavator with operator (per hour)	HR	$225.00
D-11	Dump truck with operator (per hour)	HR	$450.00
D-12	Spray rig with licensed applicator (per hour)	HR	$500.00
D-13	Vibratory plow with operator (per hour)	HR	$55.00
Supplemental Labor Rates			
D-14	Project manager / superintendent (per hour)	HR	$75.00
D-15	Irrigation technician (per hour)	HR	$65.00
D-16	ISA Certified Arborist (per hour)	HR	$95.00
D-17	Licensed pesticide applicator (per hour)	HR	$150.00
D-18	General laborer (per hour)	HR	$67.00
D-19	Crew (3-person minimum) — overtime rate (per hour)	HR	$267.00

GRAND TOTAL (ALL CATEGORIES)	

NOTES:

1. All unit prices shall be inclusive of labor, materials, equipment, overhead, and profit.

2. All prices include delivery and installation within Town limits.

3. Disposal/tipping fees, if any, shall be passed through at cost without markup unless otherwise approved.

4. Out-of-County specialized disposal/haul (if applicable) may be paid from the Lee County line, one-way, per approved rate.

5. Estimated quantities are for evaluation purposes only and do not guarantee any minimum amount of work.

6. Unit prices shall remain firm for the initial contract year. Annual CPI-U (CWUR0300SA0) adjustments per Part IV, Section 2.

7. Items not listed may be negotiated as supplemental pricing at the time of work order issuance.

EXHIBIT "C"

WORK SCHEDULE

☒ following this page (pages 1 through 4)

☐ this exhibit is not applicable

EXHIBIT “C” - WORK SCHEDULE

Section 1. General — On-Call / Work-Order-Based Contract

This is a continuing services, on-call contract. Individual work orders issued by the Town via Notice to Proceed (NTP) will establish the specific scope, location(s), priority level, and completion deadline for each authorized task. The schedule milestones set forth in Section 2 apply to all work orders issued under this Agreement unless a work order expressly specifies different timeframes in writing.

Section 2. Schedule of Performance

The following schedule establishes the required times of performance for each phase and task under this Agreement. All days are calendar days unless otherwise stated. All deadlines run from the date of the applicable Notice to Proceed or triggering event as noted.

Phase / Task	Name or Title of Phase / Task	Calendar Days for Completion of Each Phase/Task	Cumulative Calendar Days from Notice to Proceed	Notes
1	Contract Execution and Notice to Proceed	—	0	NTP triggers all mobilization deadlines below.
2	Mobilization — Emergency Response	1	1	Within 24 hours of NTP for emergency work orders. LD: $2,500/calendar day.
3	Mobilization — Standard (Non-Emergency) Work Orders	10	10	Within 10 calendar days of NTP for standard work orders, unless otherwise specified in the work order. LD: $1,500/calendar day.
4	Pre-Work Submittals (controller/program submittals, plant lists, irrigation zone maps, backflow coordination, utility locates)	As specified in work order	Per work order	Submittals required upon NTP per Scope §4.2. No substitutions without written approval.
5	Substantial Completion of Work Order	As specified in each work order	Per work order	Irrigation system operational, landscape installation complete, site

Phase / Task	Name or Title of Phase / Task	Calendar Days for Completion of Each Phase/Task	Cumulative Calendar Days from Notice to Proceed	Notes
				returned to normal public use. LD: $1,500/calendar day beyond work order deadline.
6	Punch List Issuance by Town	5 business days after Substantial Completion	Per work order	Town or Inspector issues written punch list within 5 business days of Substantial Completion determination.
7	Punch List Completion, Site Restoration, Closeout Documentation	14 calendar days from punch list receipt	Per work order	All punch list items, site restoration, final cleanup, and as-builts (where required) completed. LD: $1,000/calendar day beyond 14-day period.
8	Final Completion and Town Acceptance	Upon Town written acceptance	Per work order	All punch list items resolved, site restored, closeout documentation accepted. Final payment processed upon written final acceptance.
9	Staging and Environmental Protection Plan	90 calendar days from Contract Execution	90	Generic plan required within 90 days of contract execution per Scope §9.8. Site-specific plan required prior to use of each staging area.
10	Annual Training — Irrigation Audits, Smart Controller Programming, GI-BMP, Hurricane/Storm Readiness	1 day (up to 8 hours), annually	Recurring annually	Provided by Contractor at no additional charge per Scope §3.1.

Phase / Task	Name or Title of Phase / Task	Calendar Days for Completion of Each Phase/Task	Cumulative Calendar Days from Notice to Proceed	Notes
11	Warranty Period — Work and Materials	1 year from written final acceptance	Per work order	Defects in materials or workmanship; response within 10 calendar days of written notification. Runs from final acceptance, not Substantial Completion.
12	Warranty Period — Sod and Turf	90 days from written final acceptance (minimum)	Per work order	Minimum per Scope §10.8; extended periods may be specified in individual work orders.
13	Final Closeout Documentation (per work order)	30 calendar days after work order completion	Per work order	Quantity summary, test records, warranties, establishment plan/schedule, and as-builts (if required) per Scope §11.4.

Section 3. Liquidated Damages Summary

The parties acknowledge that the damages the Town would suffer as a result of the Contractor's failure to meet the schedule milestones above would be difficult to determine with precision. The amounts set forth below are agreed to as reasonable estimates of the Town's actual damages, not as a penalty. Assessment of liquidated damages does not relieve the Contractor of the obligation to complete the work.

Triggering Event	LD Amount
Failure to mobilize for emergency work within 24 hours of NTP	$2,500 per calendar day
Failure to mobilize for standard work orders within 10 calendar days of NTP	$1,500 per calendar day
Failure to achieve substantial completion by work order deadline	$1,500 per calendar day
Failure to complete punch list, site restoration, and closeout documentation	$1,000 per calendar day

Triggering Event	LD Amount
within 14 calendar days after substantial completion	
Failure to maintain Maintenance of Traffic (MOT) per approved traffic control plan, MUTCD, and Town direction	$1,000 per calendar day, per occurrence, per work site

Section 4. Additional Notes

4.1 Work Order Deadlines. Specific completion deadlines will be established in each work order or task authorization. If no deadline is stated, the Contractor shall complete the work as soon as practicable consistent with Section 8.3 of the Scope of Work.

4.2 Emergency Work. Emergency work orders are subject to the 24-hour mobilization requirement regardless of time of day, day of week, or holidays. The Town's right to engage alternative contractors or resources in the event of non-performance does not waive its right to assess liquidated damages for the period of non-performance.

4.3 MOT. Liquidated damages for MOT failures apply per occurrence and per work site. Failure to maintain MOT that creates an immediate public safety hazard may also constitute grounds for suspension of work or default, independent of liquidated damages.

EXHIBIT "D"

SUPPLEMENTAL TASK AUTHORIZATION FORM

☒ following this page (pages 1 through 8)

☐ this exhibit is not applicable

TOWN OF FORT MYERS BEACH

SUPPLEMENTAL TASK AUTHORIZATION

X Supplemental Task Authorization NO.: _____

CONTRACT/PROJECT NAME: _____

CONTRACTOR: _____ PROJECT NO.: _____

SOLICIT NO.: _____ CONTRACT NO.: _____

REQUESTED BY: _____ DATE OF REQUEST: _____

Upon the completion and execution of this Supplemental Task Authorization by both parties, the Contractor is authorized to and shall proceed with the following:

EXHIBIT "A"	SCOPE OF SERVICES:	DATED: _____
EXHIBIT "B"	COMPENSATION & METHOD OF PAYMENT:	DATED: _____
EXHIBIT "C"	TIME AND SCHEDULE OF PERFORMANCE:	DATED: _____
EXHIBIT "D"	CONTRACTOR'S ASSOCIATED SUBCONTRACTOR(S):	DATED: _____

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction.

TOWN APPROVAL:

By: _____ By: _____
Department Director Date Contracts Manager Date

By: _____
Town Manager Date

ACCEPTED:

By: _____
Contractor Date

_____

EXHIBIT A

SCOPE OF SERVICES

The following services will be provided:

1:

_____
_____
_____
_____
_____

2:

_____
_____
_____
_____
_____

3:

_____
_____
_____
_____
_____

*Total Cost (of Job): $*_____

EXHIBIT B

COMPENSATION AND METHOD OF PAYMENT FOR

Section 1. BASIC SERVICES/TASK(S)

The TOWN shall compensate the CONTRACTOR for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF SERVICES", as follows:

NOTE: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONTRACTOR should be established and set forth below for each task or sub-task described and authorized in Exhibit "A". In accordance with Agreement Article 5.02(2) "Method of Payment", tasks to be paid on a Work-in-Progress payment basis should be identified (WIPP).

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE	If Applicable Indicate (W.I.P.P.)
TOTAL:				

(Unless list is continued on next page)

Section 2. ADDITIONAL SERVICES

The TOWN shall compensate the CONTRACTOR for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts or on such a basis as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONTRACTOR for ADDITIONAL SERVICES requested and authorized in writing by the TOWN shall be as set forth in Article 4 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved employee's wage classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto dated, entitled "CONTRACTOR'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONTRACTOR'S compensation and method of payment is based on an hourly rate for personnel, the CONTRACTOR shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT NO. 2 hereto entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

CONTRACTOR'S PERSONNEL HOURLY RATE SCHEDULE FOR

Contractor or Subcontractor Name: _____

(A separate Attachment No. 1 should be included for each Sub-Contractor)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate To Be Charged (Column 2x3)
Standard Rate Schedule as Included with Proposal			

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.
**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative & overhead costs, and profit.
***NOTE: A separate personnel hourly rate schedule should also be attached for each Sub-Contractor listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS FOR

CONTRACTOR OR SUB-: _____

(A separate Attachment No. 2 should be included for each Sub-Contractor)

ITEM	BASIS OF CHARGE
NOTE: Receipts or in-house logs are required for all non-personnel reimbursable expenses unless exempt (such as meals).	
Administrative Services Fee – Applicable only when specifically authorized by the Town, for administering the procurement of special additional services, equipment, reimbursables etc. not covered under the costs and/or changes established in the Agreement.	

NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

TIME AND SCHEDULE OF PERFORMANCE FOR

This EXHIBIT “C” establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to this Agreement.

Phase and/or Task Reference As Enumerated in EXHIBIT “A”	NAME OR TITLE Of Phase and/Task	Number Of Calendar Days For Completion Of Each Phase And/or Task	Cumulative Number Of Calendar Days For Completion From Date of Notice to Proceed
#1			

EXHIBIT D

CONTRACTOR'S ASSOCIATED SUB-CONTRACTOR(S) AND SUBCONTRACTOR(S) FOR

CONTRACTOR has identified the following Sub-Contractor(s) and/or Subcontractor(s) which may be engaged to assist the CONTRACTOR in providing and performing services and work on this Project:
(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm				Subcontractor Services are Exempted from Prime Contractor's Insurance Coverage	
					Yes	No

EXHIBIT "E"

FLORIDA STATUTORY REQUIREMENTS

☒ following this page (pages 1 through 5)

☐ this exhibit is not applicable

FLORIDA STATUTORY REQUIREMENTS

1. E-Verify Compliance. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

2. Public records.

a. CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

    1. Keep and maintain public records required by the TOWN to perform the service.
    2. Upon request from the TOWN's custodian of public records, provide the TOWN 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 or as otherwise provided by law.
    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 this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the TOWN.
    4. Upon completion of this Agreement, transfer, at no cost, to the TOWN all public records in possession of CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If CONTRACTOR transfers all public records to the TOWN upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology systems of the TOWN.

b. "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.
c. If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.
d. CONTRACTOR consents to the TOWN's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a

mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by TOWN.

e. CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the TOWN.

f. **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, THE CONTRACTOR MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TOWN HALL
6231 ESTERO BLVD
FORT MYERS BEACH, FL 33931
239-765-0202
FMBPUBLICRECORDS@FMBGOV.COM

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the TOWN harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.0701(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. CONTRACTOR hereby certifies that CONTRACTOR is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. CONTRACTOR further hereby certifies that CONTRACTOR is not engaged in a boycott of

Israel or engaged in business operations in Cuba or Syria. CONTRACTOR understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject CONTRACTOR to civil penalties, attorney's fees, and/or costs. CONTRACTOR further understands that any contract with TOWN for goods or services of any amount may be terminated at the option of TOWN if CONTRACTOR (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of TOWN if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

5. Disclosure Requirements for "Foreign Countries of Concern". CONTRACTOR shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], 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."

6. Public Entities Crime or Convicted Vendor List. CONTRACTOR agrees and assumes a continuous duty to disclose to the TOWN if the CONTRACTOR or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

7. Data Management; Notice of Breach. CONTRACTOR shall cooperate with the TOWN and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the TOWN must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

8. Environmental and Social Government and Corporate Activism. The TOWN has not given preference or requested documentation from the CONTRACTOR based on CONTRACTOR's social, political or ideological interest. CONTRACTOR agrees to similarly not

request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

9. No Coercion for Labor or Services. CONTRACTOR swears under penalty of perjury that CONTRACTOR does not use coercion for labor or services as defined as follows:

"Coercion" means:

i. Using or threatening to use physical force against any person;

ii. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;

iii. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

iv. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

v. Causing or threatening to cause financial harm to any person;

vi. Enticing or luring any person by fraud or deceit; or

vii. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

10. Conflicts. By entering into this agreement, the Contractor represents that it currently is not providing professional services to any third party person or entity on any project or development for which project or development approval is currently pending or proposed or for which an application is being prepared for submittal to the TOWN of Fort Myers Beach for review or approval and further agrees that during the term of this agreement, the Contractor will not provide professional services to any third party person or entity as to any project or development for which development or project approval is pending or proposed or for which an application is being prepared for submittal to the TOWN of Fort Myers Beach for review or approval.

11. **Breach of Agreement for Goods or Services Related to Emergency Response for Natural Disaster Pursuant to Section 252.505, Florida Statutes.** Pursuant to Sec. 252.505, Fla. Stat., if Contractor breaches this agreement during an emergency recovery period (1-year period beginning upon Governor's initial declaration of a natural emergency) Contractor shall pay a $5,000 penalty and damages, which may be either actual and consequential damages or liquidated damages in addition to any other consequential damages or liquidated damages that may otherwise be due under the terms of the agreement.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., CONTRACTOR declares that CONTRACTOR has read the foregoing Paragraph 9 above and that the facts stated in it are true.

CONTRACTOR:

_____

By:_____
Signature

_____
↑Type/print signature and title↑

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2026, by _____ as _____ of _____, a _____ on behalf of _____, and he/she is personally known to me or has produced _____ as identification.

_____
Signature of Notary Public - State of Florida

_____
Printed/Typed/Stamped Name of Notary
My commission expires:

EXHIBIT "I"

AFFIDAVIT REGARDING LABOR AND SERVICES

☒ following this page

☐ this exhibit is not applicable

AFFIDAVIT REGARDING LABOR AND SERVICES

AND CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN PROHIBITED

Effective July 1, 2024, pursuant to § 787.06(13), Florida Statutes, when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services.

Effective January 1, 2024, a governmental entity may not accept a bid on, a proposal for, or a reply to, or enter into, a contract with an entity which would grant the entity access to an individual's personal identifying information unless the entity provides the government with an affidavit signed by an officer or representative under penalty of perjury attesting that the entity does not meet any of the following criteria: (a) the entity is owned by the government of a foreign country of concern; (b) the government of a foreign country of concern has a controlling interest in the entity; or (c) the entity is organized under the laws of or has its principal place of business in a foreign country of concern.

Effective July 1, 2025, when an entity extends or renews a contract with a governmental entity which would grant the entity access to an individual's personal identifying information, the entity must provide the governmental entity with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of the criteria in paragraphs (2)(a)-(c), § 287.138, Florida Statutes.

Nongovernmental Entity's Name:	Tidewater Landscape of FL
Address:	1326 Kingswood Ct
Phone Number:	239-770-5970
Authorized Representative's Name:	Jeffrey Balyeat
Authorized Representative's Title:	President
Email Address:	Jeff@tidewaterlandscapefl.com

I, _____ (Name of Authorized Representative), as authorized representative attest under penalty of perjury that Tidewater Landscape of FL (Name of Nongovernmental Entity) does not: (1) use coercion for labor or services as defined in § 787.06, Florida Statutes, and (2) the nongovernmental entity is not (a) owned by a government of a foreign country of concern, (b) that a foreign country of concern does not have a controlling interest in the entity, and (c) that the entity is not organized under the laws of or has its principal place of business in a foreign country of concern, all as prohibited under § 287.138, Florida Statutes.

Under penalty of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

_____ 3-21-26

(Signature of authorized representative) Date

STATE OF Florida

COUNTY OF Lee

Sworn to (or affirmed) and subscribed before me, by means of ☑ physical presence or ☐ online notarization this 16th day of April, 2026, by Jeffrey Balyeat (Name of Affiant), who produced his Florida Driver's License as identification.

_____

Notary Public

Commission Expires 06/15/2029

KAREN A MARTIE
Notary Public - State of Florida
Commission # HH 643177
My Comm. Expires Jun 15, 2029

Personally Known ☐ OR Produced Identification ☑

Type of Identification Produced: FL DL

EXHIBIT "J"

OTHER EXHIBITS/ ATTACHMENTS

Description: _____

☐ following this page (pages ____ through ____)

☒ this exhibit is not applicable

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-542**

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING CONTRACTS WITH 1) CROWDERGULF JOINT VENTURE, INC., AND 2) T.F.R ENTERPRISES, INC., AS PRIMARY AND SECONDARY CONTRACTORS FOR DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES AS RANKED, RECOMMENDED AND SELECTED BY THE TOWN COUNCIL AT THEIR MEETING ON MAY 18, 2026; AUTHORIZING THE TOWN MANAGER TO SIGN THE CONTRACTS WITH THESE TWO FIRMS; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Per Ordinance 26-06 competitively procured solicitations are required to be brought before the Town Council for award and authorizing the Town Manager or his Designee to execute the agreement.

What the action accomplishes:

Allows the Town Manager or designee to execute an agreement with these firms if authorized.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Jeff Hauge, Community Services Director, Conor Nally, Contracts & Procurement Manager

5. **Background:**

From the Request for Proposals: *The Town of Fort Myers Beach seeks to contract a qualified Vendor(s) to provide a variety of disaster recovery related services for Fort Myers Beach, Florida. Services will be provided on an as-needed basis. No minimum amount of work is guaranteed. Not all tasks will be assigned for all events. Services shall include but are not limited to: Large- and small-scale debris removal projects, separation, staging, disposal, demolition work, vegetative and construction and demolition debris removal, hazardous waste handling, hazardous tree trimming and removal, stump grinding and removal, sand removal from roads, streets, and rights-of-way, and all additional scopes of work as described herein. The Town anticipates the award of one primary contract and one secondary standby contract as a result of this Request for Proposals, including the designation of a Primary Debris Removal Operations Contractor and a Secondary standby Debris Removal Operations Contractor. The Primary Contractor will be utilized at the Town's discretion, with the Secondary standby Contractor available for activation as needed based on event magnitude, operational capacity, timeline requirements, or at the direction of the Town. No minimum amount of work is guaranteed to either Contractors.*

On March 16, 2026, the Town issued RFP-26-11-ES for Disaster Debris Removal and Disposal Services. Responses were due on April 16, 2026, in which the town received 14 proposals, of which 2 were incomplete.

In accordance with the Town of Fort Myers Beach Purchasing Ordinance 26-06 the Selection Advisory Committee (SAC) consisting of a minimum of three members, may be established for the purpose of evaluating bids submitted to the Town. All members of the SAC are prohibited from speaking, answering questions or having contact with any potential bidder. The SAC will

review the bid and response materials prior to the SAC meeting. The committee evaluates each firm's qualifications based on past experience, express understanding of the project and proposed method of handling the project and any other criteria included for evaluation.

The Town's SAC, consisting of the Deputy Town Manager, Community Services Director, and Community Development Director, was established for the purpose of evaluating the Request for Proposals received by the Town, and met on the 27th day of April 2026 to evaluate each firm's proposals. At the noticed public meeting, the firms were evaluated based upon the established criteria within the Request for Proposals document and the SAC members recommended the top 3 ranked firms to the Town Manager. The Town Manager, after reviewing the SAC recommendations, has forwarded this to the Town Council for consideration during a regularly scheduled meeting. The Town Council is requested to award contracts to the top two ranked firms for primary and secondary agreements.

The final rankings were presented to the Town Council at its regularly scheduled meeting on May 18, 2026, at which time the Town Council approved the award of contracts to the top two ranked firms for primary and secondary agreements.

Attachments:

1. Final NS 26-103 Agreements for RFP-26-11-ES Disaster Debris Removal and Disposal Services
2. Exhibit A - CrowderGulf Joint Venture Contract
3. Exhibit B - T.F.R. Enterprises Contract

Financial Impact:

These services are on an as-needed basis and may be partially or fully funded by FEMA and FDEM, with any remaining portion to be funded by the Emergency Fund Reserve.

6. **Alternative Action**

Do not award contracts and rebid the solicitation.

7. **Management Recommendations:**

Award contracts and authorize the Town Manager to execute an agreement with the top 2 firms as primary and secondary stand-by vendors.

8. **Recommended Approval:**

Conor Nally, Contracts & Procurement Manager	Created/Initiated - 5/29/2026
Joe Onzick, Finance Director	Approved - 6/4/2026
Carolyn Luomala, Acting Controller	Approved - 6/5/2026
nancy stuparich, Town Attorney	Approved - 6/7/2026
Amy Baker, Town Clerk	Approved - 6/8/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-103

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AND AUTHORIZING CONTRACTS WITH 1) CROWDERGULF JOINT VENTURE, INC., AND 2) T.F.R ENTERPRISES, INC., AS PRIMARY AND SECONDARY CONTRACTORS FOR DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES AS RANKED, RECOMMENDED AND SELECTED BY THE TOWN COUNCIL AT THEIR MEETING ON MAY 18, 2026; AUTHORIZING THE TOWN MANAGER TO SIGN THE CONTRACTS WITH THESE TWO FIRMS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town of Fort Myers Beach issued RFP-26-11-ES on March 16, 2026 to identify primary and secondary firms to provide all labor, equipment and materials necessary to perform "Disaster Debris Removal and Disposal Services"; and

WHEREAS, the Town received proposals from twelve (12) qualified firms: 1) Aftermath Disaster Recovery, 2) CrowderGulf Joint Venture, Inc., 3) CTC Disaster Response, Inc., 4) DRC Emergency Services, LLC., 5) Dynamic Group, LLC., 6) Grubbs Emergency Services, LLC., 7) Phillips Environmental, LLC., 8) Rapid Response Disaster Services, LLC., 9) Southern Disaster Recovery, 10) T.F.R Enterprises, INC., 11) Terry Tree Service, LLC., and 12) United Freight Services, LLC.; and

WHEREAS, based on the recommendation of the Town Manager, at its meeting on May 18, 2026, the Town Council selected CrowderGulf Joint Venture, Inc., and T.F.R Enterprises, Inc., as the most responsive and qualified bidders to serve as primary and secondary contractors; and

WHEREAS, adoption of this Resolution containing the agreements with the primary and secondary contractors for debris removal and services is in the best interest of the residents of the Town of Fort Myers Beach.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby approves the primary and secondary contracts with CrowderGulf Joint Venture, Inc., and T.F.R Enterprises, Inc., attached as Exhibit A and B, and authorizes the Town Manager to sign both agreements.

Section 3. This resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Link, Council Member	___
John Mclean, Council Member	___

ADOPTED this ___ day of June 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

_____
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

INDEPENDENT CONTRACTOR'S AGREEMENT

THIS INDEPENDENT CONTRACTOR'S AGREEMENT (hereinafter this "Agreement") is made and entered into this ____ day of _____ 2026, by and between the **TOWN OF FORT MYERS BEACH**, a Florida municipal corporation (hereinafter the "TOWN") and CROWDER-GULF JOINT VENTURE, INC., a Florida Profit Corporation (hereinafter "CONTRACTOR").

WITNESSETH

WHEREAS, the TOWN is a Florida municipal corporation, having a responsibility to provide certain services to benefit the citizens of the TOWN OF FORT MYERS BEACH; and

WHEREAS, the TOWN has the full power and authority to enter into the transactions contemplated by this Agreement; and

WHEREAS, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates.

NOW THEREFORE in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.

2. **Agreement Overview.**

   a. Project Title and Description: Disaster Debris Removal and Disposal Services

   b. Procurement Method: Request for Proposal (RFP)

   c. External Funding Source(s):

   ☒ State funding (specify): FDEM

   ☒ Federal funding (specify): FEMA

   ☐ Other (specify): _____

   ☐ Not Applicable

d. Agreement Type:

☒ Defined Scope Agreement (specified recurrent services, subscriptions, single projects, and specific deliverables)

☐ ~~Agreement Utilizing Supplemental Task Authorizations (e.g. Continuing Services Agreement)~~

e. Term, Time, and Delivery:

☒ This Agreement has a Term of three (3) year(s) beginning on June 15, 2026 and ending on June 14, 2029, and may be renewed for up to two (2) additional Term(s) of one (1) year(s) each, upon agreement of the parties in writing.

☒ CONTRACTOR shall commence work under this Agreement immediately upon receipt by CONTRACTOR of the Notice to Proceed and must complete the work according to the schedule set forth in Exhibit "C". Liquidated damages, if any, will be assessed against CONTRACTOR for late completion as set forth in Exhibit "C".

f. Project Management:

TOWN's Project Manager		CONTRACTOR's Project Manager	
Name:	Jeff Hauge	Name:	Ashley Ramsay-Naile
Title:	Director of Community Services	Title:	President
Phone:	239-765-0202	Phone:	800-992-6207
Email:	jhauge@fmbgov.com	Email:	jramsay@crowdergulf.com

g. Notice Addresses:

TOWN: Fort Myers Beach Town Council, Attn: Town Manager, 6231 Estero Blvd, Fort Myers Beach, Florida 33931

CONTRACTOR: Crowder-Gulf Joint Venture, Inc., Attn: President, 5629 Commerce Blvd. E Mobile, AL 36619

h. Exhibits: The Parties shall comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated herein by reference:

☒	Exhibit "A"	Scope of Work
☒	Exhibit "B"	Compensation and Pricing
☒	Exhibit "C"	Work Schedule
☐	Exhibit "D"	Supplemental Task Authorization Form

■	Exhibit “E”	Florida Statutory Requirements
☐	Exhibit “F”	Attachment 8: Federal Regulations and Terms (Federal)
☐	Exhibit “G”	Additional Terms for State-Funded Agreements (_____)
☐	Exhibit “H”	Plans/Specifications/Shop Drawings
■	Exhibit “I”	Federal Contract Provisions and Assurances
■	Exhibit “J”	Other (Specify): Affidavit Regarding Labor and Services
☐	Exhibit “K”	Other (Specify): _____
☐	Exhibit “L”	Other (Specify): _____

i. ~~Additional Provisions:~~

_____

_____

_____

_____

_____

3. Description of Work.

a. The TOWN hereby retains CONTRACTOR to furnish goods and/or services as described in the Scope of Work, which is attached hereto as Exhibit "A" and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" will be resolved in favor of the body of this Agreement.

b. CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Work, unless specifically excluded.

c. CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the TOWN, together with any addenda, hereinafter the “Bid Documents, as applicable.” The Bid Documents, if applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.

4. Supplemental Task Authorizations. The provisions of this paragraph only apply if “Agreement Utilizing Supplemental Task Authorizations” is checked in paragraph 2(d) (“Agreement Type”) above.

a. This Agreement anticipates a variety of projects being requested by the TOWN to be provided by the CONTRACTOR as determined necessary by the TOWN.

b. All work to be performed by CONTRACTOR under this Agreement shall be authorized in writing by the TOWN. Such authorization will be referred to as a “Supplemental Task Authorization” and shall reference this Agreement as the “Master Agreement”.

Supplemental Task Authorizations shall be in a form substantially similar to the form attached hereto as Exhibit "D" (if selected above in paragraph 2(k)).

c. Supplemental Task Authorizations shall contain a description of the work to be undertaken, a budget amount of the fee to be paid, and a time schedule.

d. Supplemental Task Authorizations may contain additional provisions specific to the authorized work for the purpose of expanding upon certain aspects of this Agreement pertinent to the work to be undertaken. Such supplemental instruction or provision shall not be construed as a modification to this Agreement.

e. When CONTRACTOR and the TOWN enter into a Supplemental Task Authorization wherein the term of the Supplemental Task Authorization expires on a date that is later than the date that this Agreement expires, the CONTRACTOR and the TOWN agree that the terms of this Agreement are automatically extended until the expiration or full completion of the requirements of the Supplemental Task Authorization has been performed. Cancellations by the TOWN of any remaining work prior to the full completion of the requirements of the Supplemental Task Authorization shall cause the terms of this Agreement to terminate at the same time. This provision shall only apply when the expiration of the Supplemental Task Authorization extends beyond the expiration of this Agreement. It does not apply when a Supplemental Task Authorization expires or is canceled prior to the expiration of this Agreement.

5. Payment.

a. The TOWN agrees to compensate CONTRACTOR, for work actually authorized and performed under this Agreement, at the rate or basis described in Exhibit "B", which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Work, but in no event will CONTRACTOR be paid more than the negotiated amount(s) set forth in Exhibit "B".

b. Payments shall be made in accordance with the Florida Local Government Prompt Payment Act in accordance with the payment schedule provided in Exhibit "B".

c. Progress payments, if any, will be made as set forth in Exhibit "B".

d. The TOWN reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.

6. Project management. The Project Managers for this project are set forth above in paragraph 2 ("Agreement Overview"). Any subsequent changes to the Project Manager for either party may be provided by notice as described in paragraph 7 ("Notices") below and does not require an amendment to this Agreement.

7. **Notices.** All notices to the parties under this Agreement must be in writing and sent certified mail to the addresses set forth above in paragraph 2 ("Agreement Overview").

8. **Termination.**

   a. Termination at Will: This Agreement may be terminated by the TOWN in whole or in part at any time without cause by the TOWN giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

   b. Termination for Cause: This Agreement may be terminated by either party for cause by the TOWN or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

9. **General Provisions.** CONTRACTOR must comply with the following general provisions:

   a. Warranty. CONTRACTOR guarantees to repair, replace or otherwise make good to the satisfaction of the TOWN any defect in workmanship or material appearing in the work; and further guarantees the successful performance of the work for the service intended. Neither inspection nor payment, including final payment, by the TOWN will relieve CONTRACTOR from its obligations to do and complete the work in accordance with this Agreement. If the TOWN deems it inexpedient to require CONTRACTOR to correct deficient or defective work, the TOWN may make an equitable deduction from the contract price, or, in the alternative, the TOWN may seek damages. CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the TOWN) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the TOWN in writing if it appears, in CONTRACTOR's professional judgement that the data or information provided by the TOWN for use in CONTRACTOR's work product is incomplete, defective, or unreliable. CONTRACTOR guarantees to amend, revise, or correct to the satisfaction of the TOWN any error appearing in the work as a result of CONTRACTOR's failure to comply with the warranties and representations contained herein.

   b. Bond. If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the TOWN, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the TOWN to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the TOWN. The TOWN will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to

CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the TOWN.

c. Insurance.

i. CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the TOWN from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.

ii. The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:

1. ■ **Commercial General Liability:** Coverage shall have minimum limits of **$**1,000,000 Per Occurrence, **$**2,000,000 aggregate for Bodily Injury Liability and Property Damage Liability. The General Aggregate Limit shall be endorsed to apply per project. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.

2. ■ **Business Auto Liability:** Coverage shall have minimum limits of **$** 1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include: Owned Vehicles, Hired and Non-Owned Vehicles and Employee Non-Ownership.

3. ■ **Workers' Compensation:** Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The coverage must include Employers' Liability with a minimum limit of **$** 1,000,000 for each accident.

4. ☐ ~~**Professional Liability:** Shall be maintained by the Contractor to ensure its legal liability for claims arising out of the performance of professional services under this Agreement. Contractor waives its right of recovery against the Town as to any claims under this insurance. Such insurance shall have limits~~ of not less than **$** _____ each claim and aggregate.

5. ☐ ~~**Cyber Liability:** Coverage shall have minimum limits of **$**_____ per claim.~~

6. ■ Pollution : Coverage shall have minimum limits of **$** 1,000,000 per claim/Occurrence

~~7. ☐ _____: Coverage shall have minimum limits of **$** _____ per claim/Occurrence.~~

~~8. ☐ _____: Coverage shall have minimum limits of $ _____ per claim/Occurrence.~~

iii. CONTRACTOR must furnish the TOWN with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The TOWN is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the TOWN before commencement of any work activities.

iv. The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self–insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

d. Compliance with Federal, State, and Local Laws. CONTRACTOR and CONTRACTOR's agents shall comply with all federal, state and local regulations, including those now in effect and hereafter adopted, and including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements.

e. Personal nature of Agreement; Assignment.

1. The parties acknowledge that the TOWN places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the TOWN.

2. If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the TOWN Project Manager

prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.

f. Independent contractor.

1. CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the TOWN. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the TOWN. None of the benefits, if any, provided by the TOWN to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the TOWN to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the TOWN and is subject to the TOWN's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The TOWN will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.

2. CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.

3. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

g. Indemnification.

1. CONTRACTOR must indemnify and hold the TOWN harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the TOWN, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR must

further indemnify the TOWN against any claim that any product purchased or licensed by the TOWN from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the TOWN by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the TOWN and not considered to be the TOWN's exclusive remedy.

2. In the event that any claim in writing is asserted by a third party which may entitle the TOWN to indemnification, the TOWN must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the TOWN decides to participate in the proceeding or defense, the TOWN will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.

3. The indemnification provisions of this paragraph will survive the termination of this Agreement.

h. Sovereign Immunity. Nothing in this Agreement extends, or will be construed to extend, the TOWN's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the TOWN to be sued by third parties in any matter arising out of this Agreement.

10. Miscellaneous Provisions. The following miscellaneous provisions apply to this Agreement:

a. **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.

b. **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the TOWN staff do not suffice to legally bind the TOWN in a

contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized TOWN representatives.

c. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.

d. **Non-appropriation.** TOWN's performance and obligation to pay under this Agreement is contingent upon an appropriation during the TOWN's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the TOWN Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the TOWN subject to the TOWN paying all invoices for services rendered during the period the Agreement was funded by appropriations.

e. **Taxes.** The TOWN shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the TOWN is exempt from same by Florida law, including but not limited to any sales or use tax.

f. **Severability**. If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.

g. **Construction**. If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.

h. **Headings**. All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.

i. **Waiver**. The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the TOWN's rights under this Agreement,

or of any cause of action the TOWN may have arising out of the performance of this Agreement.

j. **Force Majeure**. Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Work" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.

k. **Law; Venue.** This Agreement is being executed in Lee County, Florida and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Lee County, Florida.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective the date first written above.

ATTEST:

TOWN OF FORT MYERS BEACH, FLORIDA

By: _____

By: _____

William McKannay, Town Manager

Dated: _____

(SEAL)

Contractor's Witnesses:

Crowder-Gulf Joint Venture, Inc.

Contractor

Wesley Naile

Contractor's First Witness

Wesley Naile

↑Type/print witness name↑

By: Ashley Ramsay-Naile

Signature

Ashley Ramsay-Naile, President

↑Type/print signature and title↑

Melinda Edwards

Contractor's Second Witness

Melinda Edwards

↑Type/print witness name↑

Approved as to Form and Legality:

Town Attorney

Print Name

EXHIBIT "A"

SCOPE OF WORK

☒ following this page (pages 1 through 19)

☐ this exhibit is not applicable

EXHIBIT "A" - SCOPE OF WORK

*Primary Vendor: Crowder-Gulf Joint Venture, Inc.

1. GENERAL SCOPE OF WORK

1.1. The Town of Fort Myers Beach seeks to contract with a qualified Vendor to provide a variety of disaster recovery related services for Fort Myers Beach, Florida. These services will be on an as-needed basis with no work guaranteed. Not all tasks will be assigned for all events. Services shall include but are not limited to: Large and small scale debris removal projects, separation, staging, disposal, demolition work, vegetative and construction and demolition debris removal, hazardous waste handling, hazardous tree trimming and removal, stump grinding and removal, sand removal from roads, streets, and right-of-ways, and all additional scopes of work as described herein.

1.2. The Town anticipates the award of one primary contract and one secondary standby contract as a result of this Request for Proposals, including the designation of a Primary Debris Removal Operations Contractor and a Secondary Debris Removal Operations Contractor. The Primary Contractor will be utilized at the Town's discretion, with the Secondary Contractor available for activation as needed based on event magnitude, operational capacity, timeline requirements, or at the direction of the Town. No minimum amount of work is guaranteed to either Contractor.

1.3. All work under this RFP shall be performed in accordance with current FEMA PAPPG or other current FEMA rules and guidelines for federal reimbursements and with 2 CFR 200.317-326 as updated and where applicable.

2. DEFINITIONS

- **Contractor / Firm** – The successful proposer (s)
- **Debris Monitoring Consultant** - A Consultant retained by the Town to manage administrative aspects of the recovery process including processing FEMA submittals.
- **Debris** – Scattered items and materials broken, destroyed, or displaced by a disaster, Example; trees, construction and demolition material, personal property.
- **FEMA** – Federal Emergency Management Agency
- **FDEM** – Florida Division of Emergency Management
- **DMS** – Debris Management Site- Predetermined site location for either temporary staging or final destination.
- **Storm Litter** - Debris such as leaves and small twigs that would normally require hand raking to collect. Does not include debris easily picked up by hand.
- **Government -** The term "government" as used in this Contract refers to those governmental agencies, which may have a regulatory or funding interest in this Contract.

3. CONTRACTOR RESPONSIBILITY & ADDITIONAL SCOPE CONDITIONS

3.1. The Contractor(s) may be called upon throughout the contract to render services to assist the Town with special needs and events related to disaster recovery and/or planning activities other than full-scale disasters. Each year of this contract, the Contractor(s) shall provide a minimum of one (1) day (up to 8 hours) of on-site, pre-event training of the Town's emergency management and recovery personnel at no additional charge to the Town.

3.2. The Contractor(s) shall provide technical guidance and consultation before, during, and after the disaster event. For contracted operations, the Contractor(s) shall provide trained administrative support, onsite management staff to work with Town officials, field supervisors, operators, drivers, laborers, and all associated vehicles, equipment, tools, and supplies necessary to ensure a successful recovery operation.

3.3. The selected Contractor(s) shall be responsible for knowledge and compliance with all federal, state, and local laws, rules, practices, and regulations. The Contractor(s) shall be familiar with the Towns's approved debris management plan.

3.4. No guarantee is expressed or implied as to the quantity of services to be procured under this request for proposal; no work is guaranteed.

4. INITIATING CONTRACT WHEN A MAJOR DISASTER OCCURS OR IS IMMINENT

4.1. When a major disaster occurs or is imminent, the Town will contact the firm(s) holding Disaster Recovery Services Contract(s) to advise them of the Town's intent to activate the contracts. Debris removal will generally be limited to debris in, upon, or brought to public streets and roads, right-of-ways, municipal properties and facilities, and other public sites, unless otherwise directed.

4.2. The Town, upon contacting the Contractor(s), will issue a Notice to Proceed and work order assignment/task authorization. The issuance of the work order/task authorization will allow the Contractor(s) to begin pre-storm preparations and allow the immediate response once the recovery begins. The Contractor(s) shall also begin coordination with local, state, and federal representatives.

4.3. The Contractor(s) shall have a maximum of 24 hours from a Notice to Proceed by the Town to mobilize and begin their response. Failure to mobilize in the allowed time may result in the activation of the Secondary Contractor and/or liquidated damages.

4.4. The Contractor(s) shall be responsible for determining the method and manner of debris removal and for conducting lawful disposal operations, including regulated hazardous waste. The Town will determine the primary location of the reduction and disposal sites in consultation with Contractor(s). Additional sites may be utilized as directed and/or approved by the Town. All debris must be staged and disposed of only at properly permitted locations. All eligible loads must be quantified properly in one of the following methods: Per each item in the load (i.e. stumps), or either in Tons or Cubic Yards. Any loads not quantified properly will be subject to review for ineligibility and removal.

4.5. For "Event Types" that require Temporary Debris Staging and Reduction Sites (DMS) the Contractor(s) shall be available for technical assistance to assist the Town in determining which pre-approved DMS will be used. Selection of these sites is to be the first task completed by the Debris Management Team. With the completion of this initial task, the result will be a map of the various sites and a basic operation plan for each site.

5. RELATIONSHIP BETWEEN DEBRIS MONITORING CONSULTANT & DEBRIS REMOVAL CONTRACTOR

5.1. The Town's Debris Monitoring Consultant and/or Town Staff provide inspection, engineering, and administrative services as needed to meet the requirements for FEMA reimbursement. The

interaction between the Contractor(s) and the Consultant is crucial to the success of the response operation. Therefore, each Contractor shall be capable of working with different accounting and tracking systems.

5.2. Prior to the beginning of each hurricane season, the successful Contractor(s) shall meet with the Town and the Debris Monitoring Consultant to finalize and test the processes for inspection and documentation that are to be used during the response and recovery phase of debris removal. This meeting is to occur annually or may be included as part of the required training day.

5.3. The Contractor(s) shall fully cooperate with the Town's Debris Monitoring Consultant and Town representatives. All debris collection, hauling, reduction, and disposal operations must be documented using load tickets and monitoring procedures approved by FEMA.

The Contractor(s) shall provide access to vehicles, staging areas, disposal sites, and operational records as requested by the Town or its monitoring consultant. Debris shall not be removed from designated collection areas without appropriate monitoring documentation unless otherwise directed by the Town.

6. SCOPE OF WORK

6.1. Contractor(s) shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver the timely removal and lawful disposal of all eligible storm-generated debris, including hazardous and industrial waste materials; and shall be provided in accordance with the Standards of Performance as set forth in Section 7. Emergency push, debris removal and demolition of structures will be limited to:

a) That which is determined to eliminate immediate threats to life, public health, and safety; and
b) That which has been determined to eliminate immediate threats of significant damage to improved public or private property; and
c) That which is considered essential to ensure the economic recovery of the affected community to the benefit of the community at large.

These contracted services shall provide for the cost effective and efficient removal and lawful disposal of debris accumulated on all public, residential, and commercial properties, streets, roads, other rights-of-way and public-school properties, including any other locally owned facility or site as may be directed by the Town. Contracted services shall only be performed when requested and as designated by Town via a Notice to Proceed.

Contractor(s) shall load and haul the debris from within the legal boundaries of the municipality to a final disposal location defined by the Town, or to Debris Management Site (DMS) site(s) and as specified by the Town and set out in Section 9.8 of this Contract.

Furthermore, the vendor shall provide services as necessary to assist in the event of any Local, State, or Federal State of Emergency is declared.

6.2. Emergency Push / Road Clearance

If directed by the Town, Contractor(s) shall accomplish the cutting, tossing and/or pushing of debris from the primary transportation routes as identified by and directed by the Town. This

operational aspect of the scope of services shall be for the first 72 (plus or minus) hours after mobilization of 100% of the resources pursuant to Section 8.2. Once this task is accomplished, the following additional tasks shall begin as required.

6.3. Right-of-Way (ROW) Removal

Contractor(s) shall remove all debris from the ROW when directed to do so by Town. Contractor(s) shall use reasonable care not to damage any real or personal property not already damaged by the storm event. Damages shall be handled pursuant to section 9.5.

6.4. Right-of-Entry (ROE) Removal *(if Task Authorized by Town)*

Contractor(s) shall exercise due diligence in removing ROE debris from private property, as authorized and directed by the Town. The Contractor(s) also agrees to make reasonable efforts to save from destruction of items that the property owners wish to save (i.e., trees, small buildings, etc.). Contractor(s) shall exercise caution when working around public utilities (i.e., gas, water, electric, etc.). Every effort will be made to mark these utilities, but Town does not warrant that all utilities will be located before debris removal operations begin, nor does Contractor(s) warrant that utility damages will not occur as a result of properly conducting Contracted services.

6.5. Demolition of Structures *(if Task Authorized by Town)*

Contractor(s) shall remove structures designated for removal by and at the direction of Town, in a timely manner as determined by Town.

6.6. Private Property Waivers

Town will secure all necessary permissions, waivers and Right-of-Entry Agreements from property owners required for the lawful removal of debris and/or demolition of structures from their properties.

6.7. Sand / Soil Collection & Screening

Includes pick-up, screening, and return of screened sand and soil to designated staging areas. The Town shall designate the Debris Management Site (DMS) to be utilized for sand and soil collection, processing, and screening activities. All sand and soil collected, processed, and screened under this contract shall remain the property of the Town. The Contractor(s) shall perform all collection, screening, handling, staging, and return of sand and soil at the Town-designated DMS in accordance with Town direction and all applicable County, State, and Federal requirements.

6.8. Disaster Recovery Technical Assistance

Contractor(s) shall provide Disaster Recovery Technical Assistance, to officials within Town and designated staff members, to assist a local government with guidance and consultation on all aspects of the recovery process.

6.9. Vegetative Debris Reduction

The Town reserves the right, at its sole discretion, to designate a separate Debris Management Site (DMS) for the collection and staging of processed vegetative material, including mulch. If such a site is designated, all processed material delivered to that site shall remain the property of the Town. The Contractor(s) shall transport, stage, and manage the processed material at the Town-designated location in accordance with Town direction and all applicable County, State, and Federal requirements. Contractor(s) shall reduce the vegetative debris prior to taking it to the Town's designated final site(s). This shall be performed through either a burning or chipping process. The Town will decide which means is the better method at the time. Required permits

are the responsibility of the Contractor(s). Reduction in production rates will be sufficient to meet or exceed the daily collection rate after the fifteenth (15) day. Direct hauling of vegetative debris from the ROW collection point to final disposal site, where the material will not be delivered to or managed at a DMS, will not require reduction and will not be subject to site management or reduction fees.

6.10. Construction and Demolition (C&D) Debris Removal

Contractor(s) shall collect, consolidate, and remove C&D debris to a location designated by the Town. The production rate of this effort will be determined by the Town and will be based on the volume of C&D estimated. The production rate should be similar to the vegetation rate. Direct hauling of Construction and demolition debris from the ROW collection point to final disposal site, where the material will not be delivered to or managed at a DMS for reduction or recycling, will not be subject to site management or reduction fees.

6.11. Construction and Demolition (C&D) Debris Recycling & Reduction

When directed, the Contractor(s) shall sort the C & D and make every effort to recycle as much material as possible to reduce the overall volume transported to the landfill. Funds generated from the recycling process shall be used to reduce the final cost to the Town. The Contractor(s) is responsible for handling and proper removal of all environmental hazards collected such as refrigerants in air conditioners and refrigerators, batteries, household hazardous waste, etc. When directed and due to C&D volumes that justify the use of a DMS, the Town will work with the Contractor(s) and FDEP to establish an approved DMS suitable for C&D, including detailed site plans and required environmental protection protocols including but not limited to pre and post use monitoring prior to the use of a DMS for the staging, recycling, and reduction of C&D debris. Cost for environmental monitoring or testing shall be a pass through to the Town without profit unless otherwise agreed or initiated and managed by the Town. The method of size reduction shall be determined based on the material make-up and the fees for reduction shall be based on the type of equipment used as quoted or as allowed per negotiation for non-quoted specialty equipment.

6.12. Specialized Crews

If requested by the Town, the Contractor(s) shall provide a dedicated crew to collect specific debris piles that cause health and safety issues around hospitals, public schools, Town facilities, or other type properties.

7. PERFORMANCE OF SERVICES

7.1. Description of Service

Contractor(s) agrees to perform Contracted services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations and permits. Only the highest quality workmanship shall be acceptable. Services, equipment, and workmanship not conforming to the intent of Contract or meeting the approval of Town may be rejected. Replacements and/or rework, as required, shall be accomplished at no additional cost to the Town.

7.2. Cost of Services

Contractor(s) shall bear all of its own operating costs and is responsible for all permits, license fees, and maintenance of its own trucks and equipment to keep such property in a condition and manner adequate to accomplish contracted services.

7.3. Sub-Contractors

Contractor(s) may utilize the services of Sub-Contractors and shall be responsible for the acts or omissions of its Sub-Contractors to the same extent Contractor(s) is responsible for the acts and omissions of its own employees. Contractor(s) shall ensure that all its Sub-Contractors have and carry the same major provisions of this Contract and that the work of their Sub-Contractors is subject to said provisions. Nothing contained in this Contract shall create any contractual relationship between any Sub-Contractors and the Town. Contractor(s) shall supply the names and addresses of Sub-Contractors and materials suppliers when requested to do so by the Town.

8. STANDARDS OF PERFORMANCE

8.1. Contractor Representative

Contractor(s) shall have a knowledgeable and responsible representative report to Town's designated Contract representative within 24 hours following the execution of this Contract. The Contractor's representative shall have the authority to implement all actions required to begin the performance of contracted services as set out in this Contract and Contractor's General Operations Plan. A Contractor(s) representative shall remain locally during the duration of recovery efforts and be available to routinely meet with Town contract administrator. The Contractor(s) shall also provide reports on debris removal operational progress as requested.

8.2. Mobilization

The Contractor(s) shall have sufficient equipment and forces in Fort Myers Beach within 2 days of "notification to proceed" to begin removal operations at an initial rate of 3,000 cy per day and increasing that rate, after the sixth day, by a minimum of 3,000 cy each day, building to a consistent, minimum daily rate of 50,000 cy of debris collected, or as modified by the Town based on need of the storm event(s). Additional resources may be required to meet the debris activities based on the scope and impact of the event. Adjustments to these minimums may be approved by the Town based on the size and scope of the disaster event.

8.3. Time to Complete

Contractor(s) shall use all efforts to complete all work directed under this Contract as soon as feasibly possible, and in accordance with established timelines for completion of debris related activities for the specific event, as defined by FEMA or other federal reimbursement program guidelines or as agreed to with the Town. Town will direct the scope and nature of the work to be performed once the extent of damage has been determined.

8.4. Completion of Work

Contractor(s) shall be responsible for removal of all debris up to the point where remaining debris can only be described as storm litter and additional collection can only be accomplished by the use of hand labor and all DMS mitigation and damages by Contractor(s) have been resolved.

9. GENERAL RESPONSIBILITIES

9.1. Town Obligations

Town will furnish all information and documents necessary for the commencement of contracted services, including a written Notice to Proceed. A representative will be designated by the Town to be the primary point of contact for inspecting the work and answering any on-site questions prior to and after activation of this Contract via a written Notice to Proceed.

Town will be responsible for issuing all Public Service Announcements (PSAs) to advise citizens and agencies of the available debris management services. Contractor(s) may assist

Town with the development of debris management PSAs, if so requested.

9.2. Contractor's Conduct of Work

Contractor(s) shall be responsible for planning and conducting all operations in a satisfactory workmanship manner. Contractor(s) shall demonstrate and maintain a courteous and responsive demeanor toward all citizens, especially when working on individual private properties. All operations shall be conducted under the review of a Town representative at times, places, and by means as directed by Town. Contractor shall have and require strict compliance with the written Code of Ethics to be provided by Town.

9.3. Supervision by Contractor

Contractor(s) shall supervise and/or direct all contracted services performed by its employees, agents and Sub-Contractors. Contractor(s) is solely responsible for all means, methods, techniques, safety, and other procedures. Contractor(s) shall employ and maintain a qualified supervisor at the work site who shall have full authority to act on behalf of Contractor(s). All communications given to the supervisor by Town's authorized representative shall be as binding as if given to Contractor(s). Multiple work sites will require equal supervision as outlined above. Contractor(s) must ensure that sufficient supervision is provided to manage multifaceted debris management operations that may include projects that require separate coordination, tracking, and documentation; additional supervision and/or project management staff shall be provided if requested by the Town for these projects.

9.4. Damages by Contractor

Contractor(s) shall be responsible for conducting all operations, in such a manner as to cause the minimum damage possible to existing public, private, and commercial property and/or infrastructure. Contractor(s) shall also be responsible for any damages due to the negligence of its employees and Sub-Contractors. Should any property be damaged due to negligence on the part of Contractor(s), the Contractor(s) shall repair damages promptly and at no additional cost to the Town; repairs must be sufficient and a release from claim of damage must be signed by the parties involved. If repairs are not made promptly or sufficiently as to obtain the signed release from claim, the Town may elect to coordinate or hire an outside vendor to make the required repairs and will either bill the Contractor(s) for the damages or withhold funds due to the Contractor(s). Town shall make the determination of whether "negligence" has occurred. Contractor(s) shall respond to all damage complaints within 48 hrs. of receipt and maintain a Damage Log tracking all damage complaints including date and point of contact, proposed resolution, status of repairs or settlement, and date of documented release. Contractor(s) shall review this list with Town designated contract manager for a minimum of weekly and provide copies of all releases. All Contractor(s) damages must be resolved prior to project closeout unless otherwise agreed to by Town. If at any time the damage list exceeds 25 open claims without scheduled repairs or at the discretion of the Town, the Contractor(s) shall provide, at no additional cost to the Town, a dedicated staff member to resolve damage claims.

9.5. Contractor's Duty Regarding Other Contractor(s)

Contractor(s) acknowledges the presence of other Contractors involved in disaster response and recovery activities by the federal, state and local government and of any private utility, and shall not interfere with their work.

9.6. Contractor's Ownership of Debris: Excluding Piled or Dunned Sand

Unless otherwise directed by Town, all debris, excluding sand, but including regulated hazardous waste, shall become the property of Contractor(s) for removal and lawful disposal. The debris will consist of, but not be limited to: vegetative, construction and demolition, white

goods, and household solid waste. Disposal costs at non-designated disposal locations shall be passed through to the Town without mark-up on the monthly invoices.

9.7. Contractor's Disposal of Debris

Unless otherwise directed by Town, Contractor(s) shall be responsible for determining and executing the method and manner for lawful disposal of all eligible debris, including regulated hazardous waste. Town shall determine the primary location of the reduction and disposal sites in consultation with Contractor(s). Additional sites may be utilized as directed and/or approved by Town.

9.8. Debris Management Site (DMS)

9.8.1. Site Setup

Prior to beginning operation at a debris management site, the condition of the site shall be photographed, or video recorded by the Contractor(s) and its condition documented and agreed upon by the Town, Contractor(s), and Property Owner if applicable. As directed by the Town, baseline environmental assessments shall be performed and supplied for Town review. Site setup shall be completed by the Contractor(s) to include but not limited to, grubbing, silt fencing, all weather tower construction and/or rental, and site operation plan. Town shall approve additional materials if determined necessary to provide for safe access to the site, costs for these materials shall be a pass-through cost without mark-up.

9.8.2. Site Operation

Debris shall be stored in accordance with all federal, state, and local regulations. Fire lanes and adequate access shall be provided. Debris reduction activities shall be performed at each DMS as to maintain the safe and efficient operation of the site.

9.8.3. Site Remediation

Debris management sites shall be returned to equal or better than original condition and to the satisfaction of Town. Contractor(s) shall be responsible for any damages pursuant to section 9.4.

9.8.4. Site Security

Contractor(s) shall supply twenty-four (24) hours per day security for the DMS sites to ensure unlawful or unauthorized dumping of debris does not occur. Unauthorized debris shall become the responsibility of the Contractor(s) and must be disposed of lawfully and without additional costs to the Town.

9.8.5. Debris Management Site (DMS)

The Town will have interlocal agreement with Lee County that may allow for the use of County-approved Debris Management Sites (DMS). When applicable, the Contractor(s) shall coordinate debris operations at such sites in accordance with the terms of the interlocal agreement and any applicable County, State, and Federal requirements. Use of County-approved DMS sites does not relieve the Contractor(s) of responsibility for coordination, compliance, documentation, access control, monitoring, or operational support associated with debris management activities.

The Debris Monitoring Team will determine the minimum number of sites required for each storm event. Lee County will designate the DMS to be activated. The County will select these sites at the beginning of each hurricane season. Preparation, maintenance,

and operation of these DMS facilities are entirely the Contractor's responsibility.

Preparation and maintenance of facilities shall include maintenance of the DMS approach and interior road(s) for the entire period of debris hauling, including provision of rock for any roads that require stabilization for ingress and egress. Each facility shall include a roofed inspection tower sufficient for a minimum of three (3) inspectors for the inspection of all incoming and exiting loads. The Contractor(s) will be responsible for obtaining any required permits, which shall be paid at cost by the Town. At the Town's discretion, owned rights of way or other entity owned property could be provided for temporary storage of debris.

If needed, additional Contractor(s) identified DMS sites may be considered for approval by the Town. Lease agreements, between the Contractor(s) and the property owner, for these properties may be executed by the Contractor(s) with approval from the Town. Management of these sites shall be subject to all terms outlined in this document, including but not limited to DMS management, environmental controls, and site remediation.

9.8.6. DMS Debris Removal Operations Plan and Environmental Protection Plan

Contractor(s) shall provide within 90 days of execution of this contract, their generic site management plan. Once the debris management site is selected for use, the Contractor(s) shall provide a Site Management Plan. This plan is to address site setup, pre-use activities, post-use activities and operational activities. The plans shall include pre-and-post video and other checklists to ensure proper management of the site. Contractor(s) shall submit three (3) copies of the plan. The plan shall be drawn to a scale of 1" = 50' and address the following functions:

- Access to site
- Site preparation -clearing, erosion control, and grading
- Traffic control procedures
- Safety
- Segregation of debris
- Location of ash disposal area, hazardous material containment area, Contractor(s) work area, and inspection tower
- Location of incineration operations, grinding operation (if required). Burning operations require a 100-foot clearance from the stockpile and a 1000-foot clearance from structures.
- Location of existing structures or sensitive areas requiring protection
- Restoration of Site

9.8.7. Debris Processing and Classification

All debris shall be processed in accordance with local, state and federal law, standards, and regulations. Processing shall include, but is not limited to, reduction by grinding and/or incineration when approved by the Town. Prior to reduction, all debris shall be segregated by common waste material classifications; e.g., vegetative debris, construction and demolition debris, recyclable debris, white goods, hazardous waste, etc.

9.8.8. Generated Hazardous Waste Abatement

Abatement of hazardous waste identified by the Town is to be disposed of in accordance with all applicable Federal, State, and local laws, standards, and regulations.

9.8.9. Debris Disposal

Disposal of all eligible debris, reduced debris, ash residue and other products of the debris management process shall be in accordance with all applicable Federal, State, and local laws, standards, and regulations. Unless otherwise directed by the Town, the Contractor(s) shall be responsible for paying all landfill tipping or disposal fees and provide all scale tickets or other related & required documentation to the Debris Monitoring Consultant needed to receive eligible reimbursement through FEMA and (FHWA) for such fees.

Tipping or Disposal Fees at Final Disposal Sites shall be passed through to the Town at cost without mark-up or escalation.

Unless otherwise notified, Tipping or Disposal costs for debris disposed of at approved Lee County owned and operated Final Disposal Sites, shall be the responsibility of the Town; in lieu of pass-through debris disposal costs. Disposal fees shall be the normally posted gate fees and be reconciled against load and scale tickets in the same manner as Contractor(s) paid disposal fees. Tipping fees for debris from ineligible work, not approved by the Town, shall be the responsibility of the Contractor and deducted from the invoice.

9.8.10. Debris Monitoring Assistance

Assistance to the Debris Monitoring Consultant by the Contractor(s) shall include, but is not limited to the following:

- Monitoring multiple Contractors and multiple trucks delivering materials to the DMS.
- Verify that each truck that delivers to the DMS matches its manifest ticket – truck and maximum capacity.
- Make sure load is properly secured for transport.
- Photograph of each loaded truck bed and attach photograph to truck's manifest ticket or link with digital photographic records, as applicable.
- Review trucks manifest and observe the truck bed to confirm that the truck was loaded to capacity or as described on manifest ticket, and completely empty on departure.
- Maintain manifest tickets in an organized manner for proper record review and storage.
- Initial load tickets before permitting truck to leave the DMS check-in area to empty its load.
- Document location of origin of debris.
- Troubleshoot questions and problems at the DMS and identify issues that could impact eligibility for cost reimbursements.
- Remain in contact with the central office/staging operation command center.
- Perform other duties as directed by Town personnel, e.g., conduct final inspections and issue closeout reports.

9.8.11. Training

Contractor(s) shall provide training annually. Training shall take place for a minimum of one (1) day, for up to eight (8) hours of on-site. Training shall consist of pre-strike training for Town field and supervisory personnel.

10. SCOPE OF SERVICES

10.1. Geographic Assignment

The geographic boundary for work by Contractor's crews shall be only as directed by Town and will be limited to properties located within the Town's jurisdictional boundaries. Collection activities shall be monitored, and crews shall be responsible for providing detailed information of collection locations as requested.

10.2. Multiple, Scheduled Passes

Contractor(s) shall make complete scheduled passes at the direction of Town and/or unscheduled passes of each area impacted by the storm event. Town shall direct the interval timing of all passes. Passes shall be complete only when Town deems they meet the definition outlined in section 8.4. Sufficient time shall be permitted between subsequent passes to accommodate reasonable recovery and additional debris placement at the ROW by the citizens and the Town.

10.3. Operation of Equipment

Contractor(s) shall operate all trucks, trailers, and all other equipment in compliance with any/all applicable federal, state and local rules and regulations. Equipment shall be in good working condition, with no fluid leaks, and must have an enclosed rear or operable tailgate. NO unapproved improvised tailgates are allowed, e.g. chain link fencing, etc. All loading equipment shall be operated from the road, street or ROW using buckets and/or boom and grapple devices to collect and load debris. No equipment shall be allowed to operate on private property or outside of the public ROW unless otherwise directed by Town. Damages by the Contractor(s) or its representative shall be the Contractors responsibility and repaired at no additional cost to the Town as outlined in section 9.4. Should operation of equipment be required outside of the public ROW, Town will provide a Right-of-Entry Agreement, as set out in Section 6.6 of this Contract.

10.4. Certification of Load Carrying Capacity

Contractor(s) shall submit to Town a certified report indicating the type of vehicle, make and model, license plate number and/or trailer VIN number, assigned debris hauling number and measured maximum volume, in cubic yards, of the load bed of each piece of equipment to be utilized to haul debris. This report shall be maintained, updated, and provided to the Town whenever equipment is added or deleted.

The measured volume of each piece of equipment shall be calculated from the actual physical measurement performed by Town, Town's Debris Monitoring Contractor(s), and Contractor(s) representatives at a Town designated location. A standard measurement form certifying actual physical measurements of each piece of equipment, including side boards and deductions shall be an attachment to the certified reports submitted to Town.

Each vehicle shall be measured for cubic yard capacity. Each vehicle shall have one numbered certification form prepared with a written description of the measurements, detailed diagram showing the overall inside dimensions, the dimensions of any and all, side boards, and/or deductions, and photograph attached. Deductions, such as doghouses, slant plates, etc. shall be shown as a deduction from the total cubic yards. Example: Measure and diagram length times Width times Height divided by 27= Total CY. Second, measure and diagram the "deduction item" and subtract from the total CY. This is the number that will be certified on the certification form and the placard placed on the vehicle. Certification forms shall be in triplicate, sequentially numbered and verified by a Town representative. Town shall retain the

original certification copy, the Contractor(s) shall retain the second copy, and the third copy shall remain in the certified vehicle.

Any changes to the equipment size or capacity, i.e. adding or removing sideboards, tailgates etc. will require it to be recertified. This new certification shall be attached to the original certification and documented as to when and/or why recertification was required and occurred.

Any vehicle may at any time be re-measured for capacity. If determined the capacity is different due to mathematical error, this new capacity will be reflected on any previous loads and reconciled as such. Digital copies of truck certifications, forms, and photographs may be used in place of hard copies when applicable technologies are both available and if conform with and are compatible with an approved ADMS used by the debris monitoring Contractor(s).

10.5. Vehicle Information

The maximum load capacity of each hauling vehicle will be rounded to the nearest whole cubic yard (CY) (Decimal values of .1 through .4 will be rounded down and decimal values of .5 through .9 will be rounded up). The measured maximum load capacity (as adjusted) of any vehicle load bed shall be the same as shown on the certification form and placarded on each numbered vehicle or piece of equipment used to haul debris. Contractor(s) name and vehicle certification number shall be on the placard along with the certified CY. All vehicles or equipment used for hauling shall have and use a Town / Contractor-approved tailgate. A complete list of all certified vehicles with total adjusted CY information including details of tailgates, sideboards, and deductions shall be supplied, maintained, and updated by the Contractor(s) when any changes occur at all DMS sites.

10.6. Security of Debris during Hauling

Contractor(s) shall be responsible for the security of debris on/in each vehicle or piece of equipment utilized to haul debris. Prior to leaving the loading sites, Contractor(s) shall ensure that each load is secure and trimmed so that no debris extends horizontally beyond the bed of the equipment in any direction or vertically above FDOT maximum height requirements; tailgates must be closed. All loose debris shall be reasonably compacted and secured during transport in accordance with FDOT guidelines. As required, Contractor(s) will regularly survey the primary transportation routes used by Contractor(s) & its subs and recover fallen or blown debris from the roadway(s).

10.7. Traffic Control

Contractor(s) shall mitigate impact on local traffic conditions to the greatest extent possible while collecting or managing debris. Contractor(s) are responsible for establishing and maintaining appropriate traffic control in accordance with the most current edition of the US Department of Transportation Manual of Uniform Traffic Control Devices (MUTCD) (see http:mutcd.fhwa.dot.gov OR other appropriate address for manual). Contractor(s) shall provide sufficient signage, flagging, and barricading to ensure the safety of vehicular and pedestrian traffic at all debris removal, reduction and/or disposal sites.

10.8. Workdays/Hours

Contractor(s) may conduct debris removal operations 30 minutes prior to and 30 minutes after the published sunrise/sunset, seven (7) days per week unless prohibited by ordinance. Any mechanical, debris reduction operations or burning operations may be conducted twenty-four (24) hours per day, seven (7) days per week or in accordance with Local, State or Federal decree. Adjustments to workdays and/or work hours shall be as directed by Town following consultation and notification to Contractor(s).

10.9. Hazardous and Industrial Wastes

Contractor(s) shall provide within 90 days of execution of this contract, their Hazardous and Industrial Materials Cleanup and Disposal Plan. This plan shall outline procedures on how the Contractor(s) shall identify, isolate, and reasonably protect all hazardous or industrial materials encountered during debris removal operations for collection and disposal.

Contractor(s) shall build, operate, and maintain a Hazardous Waste and Industrial Material Storage area until proper disposal of such waste is feasible. Contractor(s) may use the subcontracting services of a firm specializing in the management and disposal of such materials and waste as outlined in section 7.3.

10.10. Stumps

All eligible stumps authorized by the Town shall be extracted, loaded, transported, stored, reduced and disposed in accordance with the standards and pricing templates of this Contract and in accordance with FEMA guidance documents DAP9523.11 or as amended.

Small stumps placed within loose debris piles shall be collected as normal debris. Loose stumps, placed at the right-of-way by others shall be identified and converted to cubic yards prior to collection. The size of all eligible loose stumps shall be determined by measuring up 1 to 2 feet from the root system then measuring the circumference and dividing by (3.14) to determine the diameter; or in accordance with the most currently available FEMA guidelines. All stumps will be documented, invoiced and paid in accordance with FEMA guidance and details & conditions of this Contract.
The Contractor(s) shall backfill the hole left from stump extractions. A stump will be determined eligible for extraction based on the most current FEMA guidance but at a minimum must meet the following:

- The stump poses a threat to health and safety, and
- Has 50% or more of the root-ball is exposed, and
- It is greater than 24” in diameter as measured 24” above the ground.

FEMA policy for documentation of stumps shall be followed but at a minimum the following documentation must be obtained for each stump removed:

- Photographs and GPS coordinates that establish the location is on public property.
- Specific narrative describing the threat to health and safety
- Diameter of the stump
- Quantity of material needed to fill the resultant hole

Prior to stump extraction, all documentation described above shall be provided to the Town; once determined eligible, written authorization shall be provided to the Contractor(s) to remove the eligible stump. Copies of this authorization shall be submitted with the invoice in order to justify payment.
The Contractor(s) must complete a FEMA Hazardous Stump Worksheet where required by FEMA policy. In the event that there are changes to FEMA or other regulatory requirements for stump documentation, the most current guidance or policy shall apply.

Reduction costs of stumps shall be included in the debris processing costs established in the pricing template.

10.11. Work Safety

Contractor(s) shall provide and enforce a safe work environment as prescribed in the

Occupational Safety and Health Act of 1970, as amended. Contractor(s) shall provide such safety equipment, training, and supervision as may be required by Town and/or other governmental regulations. Contractor(s) shall ensure that its subcontracts contain a similar safety provision.

10.12. Inspection and Testing

All debris shall be subject to inspection by Town and other public authorities to ensure compliance with Contract, applicable federal, state, and local laws, and in accordance with generally accepted standards of emergency management professionals. Town or its representatives will, at all times, have access to all work sites and disposal areas. In addition, authorized representatives and agents of the government shall be permitted to inspect all work, materials, invoices and other relevant records and documentation.

10.13. Retention of Collection Equipment

Contractor(s) shall supply and maintain a sufficient quantity of collection equipment to complete the debris management project in accordance with the collection rates established herein or as approved by Town to complete the final stages of the project within the established timelines. Collection equipment shall remain in force until the debris collection is complete or when determined by Town and Contractor(s) to be adequate to complete the recovery effort. Equipment leaving the Town prior to completion of the recovery effort shall be replaced with equal or better equipment. Unless the Town determines that downsizing of the operation is warranted.

10.14. Chainsaw Crews

Crews shall work only as directed by task order by the Town; the number of crewmembers and scope of work to be performed shall be outlined in the task order. Following the initial cut and toss phase of the project, chainsaw crews must be monitored by the Town's debris monitoring firm. Unauthorized work shall not be paid for. Detailed invoices consisting of at a minimum the number of crewmen, hours worked, location, and description of work performed shall be submitted with the monthly invoice.

10.15. Hazardous Trees

Hazardous Trees are to be removed if the condition was caused by the disaster, it is an immediate threat to health and safety, and has a diameter breast height of six inches (6") or greater, and one of the following criteria is met:

- More than 50% of the crown is damaged or destroyed; or
- The trunk is split, or it has broken branches that expose the heartwood of the tree; or
- It is leaning at an angle greater than 30 degrees

Trees determined to be hazardous and that have less than 50% of the root-ball exposed should be cut flush at ground level.

FEMA policy for documentation shall be followed but at a minimum the following minimum documentation must be obtained for each hazardous tree prior to its removal:

- Photographs and GPS coordinates that establish the location is on public property
- Specific narrative describing the threat to health and safety

After hazardous trees are properly documented and determined eligible by the Town or designated Debris Monitor, written authorization shall be given to the Contractor(s) to remove the tree. Copies of these authorizations are required to be submitted with the invoice in order to be eligible for payment.

10.16. Hanging Limbs

Limbs, authorized as eligible for reimbursement by the Town must be:

- Located on improved public property
- Greater than two inches (2") in diameter at the point of breakage
- Still hanging in a tree and threatening a public use area

FEMA policy for documentation shall be followed but at a minimum the following documentation must be obtained for each hanging limb that is removed:

- Photographs and GPS coordinates that establish the location is on public property
- Specific narrative describing the threat to health and safety

After hazardous trees are properly documented and determined eligible by the Town or Town designated debris monitor, written authorization shall be given to the Contractor(s) to remove the tree. Copies of these authorizations are required to be submitted with the invoice in order to be eligible for payment.

10.17. Hand Loaded Collection Equipment

Hand load trucks, trailers or equipment are discouraged, and shall be used only in areas where typical collection equipment cannot access and only with prior written authorization of the Town. These "hand loaders" must remove all eligible debris as outlined in section 8.4. All Contractor(s) equipment must be capable of self-unloading, equipment that must be unloaded by hand or requires assistance from operator at DMS site will not be permitted to dump at DMS sites.

10.18. Dead Animals

Dead animals found (or placed) in the right-of-way or inadvertently delivered to a debris management site shall be the responsibility of the Contractor(s) to remove and lawfully dispose of under this contract.

11. REPORTS, CERTIFICATIONS, AND DOCUMENTATION

11.1. Accountable Debris Load Forms

Town and Contractor(s) shall, after reconciliation, accept the serialized copies of the debris reporting tickets or approved ticket data base as the certified**,** original source document to account for the measurement and accumulation of the volume of debris delivered and processed at the reduction and/or disposal sites as verified by Town representative. The serialized ticketing system (paper or approved electronic) will also be used in the event of additional debris handling for volume reduction and/or the possible requirement for a debris transfer station. These tickets/data base shall be used as the basis of any electronic generated billing and/or reports.

- If requested, the Contractor(s) shall provide, minimum 4-part carbon copy, debris load tickets for use through the recovery operations.
- All debris collection and disposal information required by FEMA of other regulations must be documented on each load ticket
- The Contractor(s) shall submit all original load tickets to the Town

At the option and request of the Town, the Contractor(s) shall reconcile their load ticket copies with Town copies no less than one time per week. Discrepancies shall be noted and resolved prior to the next reconciliation period.

An approved and auditable electronic debris ticket database, established through the use of an approved ADMS provided by the Town's debris monitoring Contractor(s), may be used in place of serialized copies of the debris reporting tickets. In this event, load tickets will be replaced by ADMS generated receipts or reconciled electronic database where applicable.

11.2. Reports

Contractor(s) shall submit periodic, written reports to Town as requested or required, detailing the progress of debris removal and disposal. These reports shall include, but are not limited to:

11.2.1. Daily Reports

Daily reports shall detail the locations where passes for debris removal were conducted, the quantity of debris (by type) removed and disposed of, the total number of personnel crews engaged in debris management operations, and the number of grinders, chippers and mulching machines in operation. Contractor(s) shall also report and provide regular repair progress updates of any damages to private property caused by the debris operation or damage claims made by citizens and such other information as shall be required to completely describe the daily conduct of Contractor's operations.

11.2.2. Weekly Summaries

A summary of all information contained in the daily reports as set out in Section 11.2.1 of this Contract or in a format required by Town.

11.2.3. Report Delivery

The scheduling, point of delivery and receiving personnel for the debris operations report will be directed by Town in consultation with Contractor(s).

11.2.4. Final Project Closeout

Upon final inspection and/or closeout of the project by Town, Contractor(s) shall prepare and submit a detailed description of all debris management activities to include, but not be limited to the total volume, by type of debris hauled, reduced and/or disposed of, plus the total cost of the project invoiced to Town. Contractor(s) shall provide any other additional information as may be necessary to adequately document the conduct of the debris management operations for Town and/or other government entity. Report shall include a section detailing any private property damages or claims, the satisfaction of these claims, as well as the status of any outstanding claims that require further action by the Contractor(s).

All load tickets, scale tickets, disposal documentation, and supporting backup documentation shall be submitted to the Town no later than 30 days following the completion of each operational period or pass, and all final backup documentation shall be reconciled and submitted in full no later than 60 days following the issuance of the final Notice of Completion by the Town. Failure to submit complete and reconciled documentation within these timeframes may result in delayed or denied payment for the associated work. The Town reserves the right to withhold final payment until all required documentation has been received, reviewed, and accepted.

11.2.5. Additional Supporting Documentation

Contractor(s) shall submit sufficient reports and/or documentation for debris loading, hauling, disposal, and load capacity measurements, and any other services provided by Contractor(s) as may be required by Town and/or other governmental entity to support

requests for debris project reimbursement from external funding sources.

11.2.6. Report Maintenance

Contractor(s) will be subject to audit by federal, state and local agencies pursuant to this Contract. Contractor(s) shall maintain all reports, records, debris reporting tickets and contract correspondence for a period of not less than three (3) years.

11.2.7. Contract File Maintenance

Contractor(s) shall maintain this Contract and the invoices that are generated for Contracted services for a period of five (5) years or the period of standard record retention of the Town, whichever is longer. Public records law requires that all records that are not exempt, must be made available upon request by the public. TOWN may unilaterally cancel this contract for refusal to comply with this provision.

12. PRICING AND PAYMENTS

12.1. Schedule of Values

12.1.1. Category A - Core Services includes pricing for debris removal; debris processing; debris disposal; stump extractions; hazardous limb removal; and storm damage tree removal.

The following notes are defined and assigned in each line item as individually listed in Category A of the Schedule of Values:

- Note 1 - Prices shall include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda, Florida. Tipping fees at final disposal site(s) shall be the responsibility of the Contractor(s) and passed through to the Town without mark-up, unless approved otherwise. See section 9.8.9. within scope of services for disposal at County Owned and Operated disposal sites.

- Note 2 - For out of County disposal sites (excluding the Lee/Hendry Landfill), additional mileage will begin and be measured from the Lee County boundary closest to the disposal site. The approved per load additional mileage cost will be applied to each ticketed out of County load and be applicable to the miles beyond the Lee County boundary. Mileage is based on a one-way haul distance.

- Note 3 – For multi-year contract, the prices shown in Category A would be adjusted on the anniversary date of Contract according to a percentage equal to the precent change in the Consumer Price Index as published in the U.S. Department of Labor, Bureau of Labor Statistics. (CWUR0300SAO) is the established index.

- Note 4 – Includes all site services, including but not limited to, providing monitoring towers, sanitary portable restrooms, and site safety & security.

- Note 5 – Includes comprehensive management of all debris site activities, including grubbing and establishing ingress/egress as needed, maintaining driving and working surfaces, managing storm water & regulatory compliance, and close-out site remediation. See section 9.8 in the scope of services for more detail.

- Note 6 – All stumps placed on the right of way by citizens will be converted to CY per

the Stump Conversion Chart provided by FEMA Guidance DAP9523.11 and charged as regular debris for items A2 through A7.

- Note 7 – Items must be documented as per the scope of services and in accordance with appropriate FEMA Guidance, including DAP9523.11 or as amended.

12.1.2. Category B - Specialized Removal and Restoration pricing for specialized removal (activities require specific task authorization and include all labor and management of tasks); and Restoration (activities require specific task authorization and include all labor and management of tasks).

The following notes are defined and assigned in each line item as individually listed in Category B of the Schedule of Values:

- Note 1 - Prices shall include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda, Florida. Tipping fees at final disposal site(s) shall be the responsibility of the Contractor(s) and passed through to the Town without mark-up, unless approved otherwise. See section 9.8.9. within scope of services for disposal at County Owned and Operated disposal sites.

- Note 2 - For out of County disposal sites (excluding the Lee/Hendry Landfill), additional mileage will begin and be measured from the Lee County boundary closest to the disposal site. The approved per load additional mileage cost will be applied to each ticketed out of County load and be applicable to the miles beyond the Lee County boundary. Mileage is based on a one-way haul distance.

- Note 3 – Includes all site services, including but no limited to, providing monitoring towers, sanitary portable restrooms, and site safety & security

- Note 4 – Items must be documented as per the scope of services and in accordance with appropriate FEMA Guidance, including DAP9523.11 or as amended.

12.1.3. Category C - Specialized Labor and Work Crews includes pricing for specialized labor; work crews (typical crew makeup for "first 70 hours of operation); and additional laborers.

12.1.4. Category D - Equipment includes pricing for equipment used while performing disaster recovery services.

12.2. Billing Cycle

Contractor(s) shall invoice the Town on a 30-day basis reflecting the close of business on the last working day of the billing period. Serialized debris reporting tickets and disposal site verification of the actual cubic yardage for each load of debris or itemized stumps shall support all invoices. Electronic copies of supporting documentation may be used if approved by the Town. Invoices need to contain enough detailed descriptions within the invoice to understand the scope of work being billed in the invoice. (i.e. not just services for dates xx/xx/xxxx through xx/xx/xxxx)

12.3. Ineligible Work

Contractor(s) will not be paid for the removal, transportation, storage, reduction and/or disposal of any materials or stumps that were determined by Town and/or other government entity as ineligible debris and for which the Contractor(s) was not formally authorized to perform by the

Town.

12.4. Eligibility Inspections

Contractor(s) and Town or its representatives shall inspect each load to verify that the contents are in accordance with the accepted definition of eligible debris as determined within this Contract.

12.5. Eligibility Determinations

If any load is determined to contain material that does not meet the definition of eligible debris, e.g., debris collected from private property or not at the request of the Town or its representatives, the load shall be directed to an alternate disposal or processing facility. No payment will be approved, and Contractor(s) shall not invoice the Town for ineligible loads. Town, through its authorized representative, will be the sole judge as to whether the material conforms to the definition of eligible debris, and its decision will be final.

12.6. Unit Price/Service Negotiations

Unknown and/or unforeseen events or conditions may require an adjustment to the stated unit prices within this Contract. Any amendments, extensions, or changes to the scope of services or unit prices are subject to full negotiations between Town and Contractor(s) and subject to the review of the government.

In addition, all costs related to labor, materials, and equipment shall be fair, reasonable, and consistent with costs set forth in the schedule of values and with the most current version of the Federal Emergency Management Agency's Schedule of Equipment Rates, to be applied at all times for implementation of this Contract.

12.7. Specialized Services

Contractor(s) may invoice Town for costs incurred to mobilize and demobilize specialized equipment required to perform services in addition to those specified under within this Contract. Additional specialized services will only be performed when directed by the Town. The rate for specialized services shall be in accordance with the rates provided in the Schedule of Values. Items not included shall be negotiated and shall be fair and reasonable as determined by the Town.

EXHIBIT "B"

COMPENSATION AND PRICING

☒ following this page (pages 1 through 6)

☐ this exhibit is not applicable

EXHIBIT B - COMPENSATION AND PRICING

26-11-ES - DISASTER DEBRIS REMOVAL

SCHEDULE OF VALUES

CATEGORY A: CORE SERVICES

SECTION 1: DEBRIS REMOVAL, PROCESSING AND DISPOSAL

Item	Description	Unit of Measure	Unit Price
A1	Debris Removal from Public Property (Right-of-Way) and Hauling to Debris Management Sites (DMS)	CY	$ 10.50
A2	Debris Removal from Debris managemetn Sites (DMS) and Hauling to Final Disposal Site (Note 1 & 2)	CY	$ 6.50
A3	Debris Removal from Public Property (Right-of-Way) and Hauling directly to Final Disposal Site (Note 1 & 2)	CY	$ 18.00
A4	Cost per mile for alternate disposal sites outside of Lee County. (Note 1& 2)	Cost /Mile	$ 65.00
A5	Management of Debris Management Sites (DMS) (Note 4&5)	CY	$ 1.50
A6	Processing (Grinding/Chipping) of Debris at DMS or Final Disposal Site	CY	$ 3.00
A7	Processing (Burning) of Debris at DMS or Final Disposal Site	CY	$ 2.50
A8	Pick Up and Haul of White Goods to Disposal Site within County (Note 1)	UNIT	$ 50.00
A9	Pick Up and Disposal of Hazardous Material	LB	$ 16.00
A10	Freon Management and Recycling (Note: 7)	UNIT	$ 45.00
A11	Non Domestic Dead Animal Collection and Transportation to final disposal.	EACH	$ 50.00

SECTION 2: STUMP EXTRACTIONS

Item	Description	Unit of Measure	Unit Price
A12	< 24 inch diameter (Note:7)	Per Stump	$ 150.00
A13	> 24 inch diameter to 47.99 inch diameter (Note:7)	Per Stump	$ 300.00
A14	48 inch diameter and greater (Note:7)	Per Stump	$ 450.00
A15	On site stump grinding including filling hole with wood chips (Note:7)	Per Inch	$ 20.00

SECTION 3: HAZARDOUS LIMB REMOVAL

Item	Description	Unit of Measure	Unit Price
A16	>2 inches at the point of breakage, or whatever the current minimum is at the time of the storm event (Note:7)	Per Tree	$ 80.00

SECTION 4: STORM DAMAGE TREE REMOVAL

Item	Description	Unit of Measure	Unit Price
A17	Trees that require the "Climbing" and "Cut & Drop" method (e.g., trees over structures, homes, buildings, utilities or public ROW)		
	6" to 12.99" diameter	Per Tree	$ 450.00
	13" to 23.99" diameter	Per Tree	$ 650.00
	> 24" diameter	Per Tree	$ 950.00
A18	Trees that can only be accessed by "Mechanized Equipment" (i.e., bucket trucks, skid steer loaders, log skidders, excavators, wheel loaders)		
	6" to 12.99" diameter	Per Tree	$ 250.00
	13" to 23.99" diameter	Per Tree	$ 450.00
	> 24" diameter	Per Tree	$ 750.00
A19	Uprooted Trees; including those that have fallen in open areas, with easy access, or that have fallen on damaged structures		
	6" to 12.99" diameter	Per Tree	$ 250.00
	13" to 23.99" diameter	Per Tree	$ 450.00
	> 24" diameter	Per Tree	$ 750.00
A20	Trees broken in two pars or snapped in half with debris not falen on any dwelling or structure		
	6" to 12.99" diameter	Per Tree	$ 150.00
	13" to 23.99" diameter	Per Tree	$ 300.00
	> 24" diameter	Per Tree	$ 450.00

NOTES - The following notes apply only to Category A within the Schedule of Values and only as identified in each individual line item

1 Prices include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda FL. Tipping fees at final disposal site(s) will be the responsibility of Contractor and passed through to the Town without mark-up, unless approved otherwise. See section 9.8.9 in the scope of services for disposal at County Owned and Operated disposal sites.

EXHIBIT B - COMPENSATION AND PRICING

26-11-ES - DISASTER DEBRIS REMOVAL

SCHEDULE OF VALUES

CATEGORY B: SPECIALTY REMOVAL AND RESTORATION

SECTION 1: SPECIALTY REMOVAL (Activities require specific task authorization and include all labor and management of tasks)

Item	Description	Unit of Measure	Unit Price
B1	Sand/Soil Collection & Screening. Includes pick-up, screen, and return of screened sand to designated staging areas.	CY	$ 32.00
B2	Pick-up & haul debris laden sand/mud/dirt/rock from sand screening operations to final disposal (Notes 1 & 2)	CY	$ 16.00
B3	Removal of Eligible vehicles - haul to designated staging or final disposal. (Notes 1 & 2)	Unit	$ 350.00
B4	Removal of eligible Vessel from (Land)	LF	$ 295.00
B5	Demolition of Private Structure	CY	$ 38.00
B6	Dead Fish and/or Algae, including removal and sand raking from beaches.	LB	$ 4.50

SECTION 2: RESTORATION (Activities require specific task authorization and include all labor and management of tasks)

Item	Description	Unit of Measure	Unit Price
B7	Beach/Lake Restoration - Berm/Beach Cosntruction	CY	$ 68.00
B8	Canal Shoreline Restoration	LF	$ 48.00

NOTES - The following notes apply only to Category B within the Schedule of Values and only as identified in each individual line item

1	Prices include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda, FL. Tipping fees at final disposal site(s) will be the responsibility of Contractor and passed through to the Town without mark-up, unless approved otherwise. See section 9.8.9 in the scope of services for disposal at County Owned and Operated disposal sites.
2	For out of county disposal sites (excluding the Lee/Hendry Landfill), additional mileage will begin and be measured from the Lee County boundary closest to the disposal site. The approved per load additional mileage cost will be applied to each ticketed out of county load and be applicable only to the miles beyond the Lee County boundary. Mileage is based on a one-way haul distance.
3	Includes all site services, including but not limited to, providing monitoring towers, sanitary portable restrooms, and site safety & security.
4	Includes comprehensive management of all debris and debris site activities, including grubbing & establishing ingress/egress as needed, maintaining driving and working surfaces, managing storm water & regulatory compliance, and close-out site remediation. See section 9.8 in the scope of services for more detail.
5	Items must be documented as per the scope of services and in accordance with appropriate FEMA Guidance, including DAP9523.11 or as amended.

EXHIBIT B - COMPENSATION AND PRICING

26-11-ES - DISASTER DEBRIS REMOVAL

SCHEDULE OF VALUES

CATEGORY C: SPECIALIZED LABOR AND WORK CREWS

SECTION 1: SPECIALIZED LABOR

Item	Description	Unit of Measure	Unit Price
C1	Field Supervisor with truck and cell phone	Hourly	$ 95.00
C2	Administrative Assistant	Hourly	$ 45.00
C3	Heavy Equipment Operator	Hourly	$ 60.00
C4	Tool Operator (Chainsaw)	Hourly	$ 55.00
C5	Laborer w/ small tools	Hourly	$ 48.00
C6	Hazardous Material Worker w/ gear	Hourly	$ 95.00
C7	Mechanic w/ truck and tools	Hourly	$ 150.00
C8	Tree Climber w/ chainsaw and gear	Hourly	$ 125.00
C9	22' - 31' Work Boat with Captain (Inclusive of Fuel, Mooring and Mobilization)	Per Boat / Per day	$ 3,200.00
C10	Services of 2 - 4 Laborers per Vessel	Per Boat / Per day	$ 2,400.00

SECTION 2: WORK CREWS (typical crew makeup for "First 70 Hours Operation")

Item	Description	Unit of Measure	Unit Price
C11	WheelLoader w/ operator, 2.5 cy, Foreman with support vehicle and small equipment, Laborer w/ chainsaw & two (2) laborers with small tools	Hourly (entire crew)	$ 425.00

SECTION 3: ADDITIONAL LABORERS

Item	Description	Unit of Measure	Unit Price
C12	Project Manager	Hourly	$ 125.00
C13	Safety Superintendent	Hourly	$ 85.00
C14	Traffic Control Personnel	Hourly	$ 58.00
C15	Project Engineer	Hourly	$ 125.00
C16	Security Person (Unarmed)	Hourly	$ 65.00
C17	Security Person (Armed)	Hourly	$ 85.00
C18	Health / Safety or QC manager with Truck	Hourly	$ 85.00
C19		Hourly	$ -
C20		Hourly	$ -
C21		Hourly	$ -

EXHIBIT B - COMPENSATION AND PRICING

26-11-ES - DISASTER DEBRIS REMOVAL

SCHEDULE OF VALUES

CATEGORY D: EQUIPMENT

SECTION 1: EQUIPMENT

Item	Description	Specification	Capacity	Horse Power	Notes	Rate Per Hour
D1	Aerial Lift, Self Propelled	Max Platform Ht	37 ft	to 15	Articulated, telescoping, scissor	$45.00
D2	Aerial Lift, Self Propelled	Max Platform Ht	60 ft	to 30	Articulated, telescoping, scissor	$65.00
D3	Aerial Lift, Self Propelled	Max Platform Ht	70 ft	To 50	Articulated, telescoping, scissor	$75.00
D4	Aerial Lift, Self Propelled	Max Platform Ht	125 ft	To 85	Articulated, telescoping, scissor	$110.00
D5	Aerial Lift, Self Propelled	Max Platform Ht	150 ft	to 130	Articulated, telescoping, scissor	$160.00
D6	Aerial Lift, Truck Mounted	Max Platform Ht	25 Ft		Articulated, telescoping, scissor	$75.00
D7	Aerial Lift, Truck Mounted	Max Platform Ht	50 Ft		Articulated, telescoping, scissor	$100.00
D8	Aerial Lift, Truck Mounted	Max Platform Ht	75 Ft		Articulated, telescoping, scissor	$150.00
D9	Aerial Lift, Truck Mounted	Max Platform Ht	100 Ft		Articulated, telescoping, scissor	$175.00
D10	Breaker, Hand-Held Pavement	Weight	25 - 90 lbs			$45.00
D11	Breaker, Pavement			to 70		$75.00
D12	Breaker Pavement			to 105		$85.00
D13	Breaker, Pavement			to 137		$125.00
D14	Breaker, Pavement					$125.00
D15	Bucket, Clamshell	Capacity	1.0 CY			$35.00
D16	Bucket, Clamshell	Capacity	2.5 CY			$45.00
D17	Bucket, Clamshell	Capacity	5.0 CY			$55.00
D18	Bucket, Clamshell	Capacity	7.5 CY			$65.00
D19	Chain Saw	Bar Length	16 Inch			$9.00
D20	Chain Saw	Bar Length	25 inch			$9.00
D21	Chain Saw Pole	Bar Size	18 inch			$9.00
D22	Chipper, Brush	Chipping Capacity	6 inch	to 35	Trailer mounted	$65.00
D23	Chipper, Brush	Chipping Capacity	12 inch	to 60	Trailer mounted	$75.00
D24	Chipper, Brush	Chipping Capacity	16 Inch	to 100	Trailer mounted	$150.00
D25	Chipper, Brush	Chipping Capacity	18 inch	to 125	Trailer mounted	$185.00
D26	Chipper, Brush	Chipping Capacity	18 inch	to 200	Trailer mounted	$225.00
D27	Chipper, Brush	Chipping Capacity	19 inch	to 300	Trailer mounted	$325.00
D28	Chipper, Brush	Chipping Capacity	19 inch	to 450	Trailer mounted	$350.00
D29	Chipper, Brush	Chipping Capacity		to 650	Trailer mounted	$450.00
D30	Crane	Max Lift Capacity	8 MT	to 80		$140.00
D31	Crane	Max Lift Capacity	15 MT	to 150		$160.00
D32	Crane	Max Lift Capacity	27 MT	to 200		$195.00
D33	Crane	Max Lift Capacity	45 MT	to 300		$250.00
D34	Crane	Max Lift Capacity	70 MT	to 350		$350.00
D35	Crane	Max Lift Capacity	110 MY	to 450		$550.00
D36	Crane, Truck mounted	Max Lift Capacity	17,600 lbs			$200.00
D37	Crane, Truck mounted	Max Lift Capacity	33,000 lbs			$300.00
D38	Crane, Truck mounted	Max Lift Capacity	60,000 lbs			$350.00
D39	Crane, Truck mounted	Max Lift Capacity	120,000 lbs			$450.00
D40	Fork Lift	Capacity	6000 lbs	to 60		$65.00
D41	Fork Lift	Capacity	12,000 lbs	to 90		$75.00
D42	Fork Lift	Capacity	18,000 lbs	to 140		$95.00
D43	Fork Lift	Capacity	50,000 lbs	to 215		$160.00
D44	Load, Skid-Steer	Operating Capacity	1000 lbs	to 35		$155.00
D45	Load, Skid-Steer	Operating Capacity	2000 lbs	to 65		$155.00
D46	Load, Skid-Steer	Operating Capacity	3000 lbs	to 85		$155.00
D47	Load, Skid-Steer	Operating Capacity	4000 lbs	to 94		$155.00
D48	Loader, Wheel	Bucket Capacity	0.5 CY	To 38		$150.00
D49	Loader, Wheel	Bucket Capacity	1 CY	To 60		$160.00
D50	Loader, Wheel	Bucket Capacity	2 CY	To 105		$170.00
D51	Loader, Wheel	Bucket Capacity	3 CY	To 152		$180.00
D52	Loader, Wheel	Bucket Capacity	4 CY	To 200		$190.00
D53	Loader, Wheel	Bucket Capacity	5 CY	To 250		$200.00

D54	Loader, Wheel	Bucket Capacity	6 CY	To 305		$210.00
D55	Loader, Wheel	Bucket Capacity	7 CY	To 360		$215.00
D56	Loader, Wheel	Bucket Capacity	8 CY	To 415		$225.00
D57	Loader, Wheel	Bucket Capacity	9 CY	To 470		$270.00
D58	Loader, Wheel	Bucket Capacity	10 CY	To 530		$300.00
D59	Loader-Backhoe, Wheel	Bucket Capacity	.05 CY	To 40	Loader and Backhoe bucket included	$125.00
D60	Loader-Backhoe, Wheel	Bucket Capacity	1 CY	To 70	Loader and Backhoe bucket included	$135.00
D61	Loader-Backhoe, Wheel	Bucket Capacity	1.5 CY	To 95	Loader and Backhoe bucket included	$145.00
D62	Loader-Backhoe, Wheel	Bucket Capacity	1.75 CY	To 115	Loader and Backhoe bucket included	$155.00
D63	Saw, Concrete	Blade Diameter	14 in	To 14		$35.00
D64	Saw, Concrete	Blade Diameter	26 in	To 35		$40.00
D65	Saw, Concrete	Blade Diameter	48 in	To 65		$45.00
D66	Sweeper, Pavement			to 110		$85.00
D67	Sweeper, Pavement			To 150		$115.00
D68	Sweeper, Pavement			To 200		$140.00
D69	Trailer, Dump	Capacity	20 CY		Does not include prime mover	$70.00
D70	Trailer, Dump	Capacity	30 CY			$80.00
D71	Trailer, Dump	Capacity	40 CY		Does not include prime mover	$90.00
D72	Trailer, Equipment	Capacity	30 tons			$80.00
D73	Trailer, Equipment	Capacity	40 tons			$100.00
D74	Trailer, Equipment	Capacity	60 tons			$120.00
D75	Trailer, Equipment	Capacity	120 tons			$180.00
D76	Truck, Dump	Truck Capacity	8 CY	To 210		$155.00
D77	Truck, Dump	Truck Capacity	10 CY	To 235		$175.00
D78	Truck, Dump	Truck Capacity	12 CY	To 255		$185.00
D79	Truck, Dump	Truck Capacity	18 CY	To 330		$195.00
D80	Truck, Dump	Truck Capacity	28 CY	To 400		$210.00
D81	Truck, Dump	Truck Capacity	40 CY	To 460		$225.00
D82	Truck, Dump	Truck Capacity	50 CY	To 620		$235.00
D83	Truck, Flatbed	Max Gross Vehicle Weight	15,000 lbs	To 150		$80.00
D84	Truck, Flatbed	Max Gross Vehicle Weight	25,000 lbs	To 180		$90.00
D85	Truck, Flatbed	Max Gross Vehicle Weight	30,000 lbs	To 215		$100.00
D86	Truck, Flatbed	Max Gross Vehicle Weight	45,000 lbs	To 250		$110.00
D87	Truck, Flatbed	Max Gross Vehicle Weight	50,000 lbs	To 300		$120.00
D88	Truck, Flatbed	Max Gross Vehicle Weight		To 375		$130.00
D89	Truck, Flatbed	Max Gross Vehicle Weight		To 450		$145.00
D90	Truck, Knuckle Boom				Add flatbed truck to truck mounted crane	$340.00
D91	Truck, Pickup			To 130		$40.00
D92	Truck, Pickup			To 180		$45.00
D93	Truck, Pickup			To 230		$50.00
D94	Truck, Pickup			To 280		$55.00
D95	Truck, Tractor			To 210		$100.00
D96	Truck, Tractor			To 265		$110.00
D97	Truck, Tractor			To 310		$120.00
D98	Truck, Tractor			TO 350		$130.00
D99	Tub Grinder			To 400		$250.00
D100	Tub Grinder			To 500		$350.00
D101	Tub Grinder			To 600		$450.00
D102	Tub Grinder			To 700		$550.00
D103	Tub Grinder			To 800		$650.00
D104	Tub Grinder			To 900		$800.00
D105	Tub Grinder			To 1,000		$900.00
D106	Light Tower	with 4 500 watt light	w/ 10kw power unit	13.5	Trailer mounted	$100.00
D107	Light Tower					$85.00
D108	All Terrain Vehicle	6- wheel				$55.00
D109	All Terrain Vehicle	4-Wheel - 24"	250cc	15-17		$40.00
D110	All Terrain Vehicle	4-Wheel - 24"	300cc	18-20		$40.00
D111	All Terrain Vehicle	4-Wheel - 24"	400cc	26-28		$40.00
D112	Graders	Moldboard Size	10 FT	to 110	Includes Rigid and Articulate equipment	$150.00
D113	Graders	Moldboard Size	12 FT	To 150	Includes Rigid and Articulate equipment	$160.00
D114	Graders	Moldboard Size	14 Ft	To 225	Includes Rigid and Articulate equipment	$185.00
D115	Powerscreen	1400				$200.00
D116	Powerscreen	1700				$240.00
D117	Powerscreen	2100				$280.00
D118	Stacking Conveyor	30 x 60 Portable Hydraulic			Complete Road package	$120.00
D119	Water Truck	Tank Capacity	2500 Gal	to 175	Include pump and rear spray	$150.00

D120	Water Truck	Tank Capacity	4000 Gal	to 250	Include pump and rear spray	$165.00
D121	Loader - Tractor Knuckle boom	Model Barko 595 ML		To 240		$165.00
D122	Clamshell & Dragline, Crawler		149,999 lbs	to 235	Bucket not included in rate	$465.00
D123	Clamshell & Dragline, Crawler		250,000 lbs	to 520	Bucket not included in rate	$525.00
D124	Clamshell & Dragline, Truck			to 240	Bucket not included in rate	$650.00

EXHIBIT "C"

WORK SCHEDULE

☒ following this page (pages 1 through 3)

☐ this exhibit is not applicable

EXHIBIT "C" – WORK SCHEDULE

1. GENERAL

1.1. This Exhibit C establishes the performance schedule applicable to the primary and secondary Contractors awarded contracts pursuant to Solicitation No. 26-11-ES, Disaster Debris Removal and Disposal Services. This schedule governs all debris removal operations, mobilization timelines, reporting obligations, documentation requirements, and annual preparedness activities required under the Contract.

1.2. Because the nature and magnitude of a disaster event cannot be predetermined, this Work Schedule is structured around the issuance of a Notice to Proceed (NTP) rather than fixed calendar dates. All milestone timeframes are measured from the date and time the Town issues a written Notice to Proceed to the Contractor. The Contractor is required to maintain readiness throughout the term of the Contract to perform all services in accordance with the timelines set forth herein.

1.3. The schedule below reflects minimum performance requirements. The Town reserves the right to adjust, modify, or extend any milestone based on event scope, operational need, or at the Town's sole discretion, provided such changes are communicated in writing to the Contractor.

1.4. No guarantee is expressed or implied as to the quantity of services to be procured or performed under this Contract; no work is guaranteed. This Exhibit becomes operative only upon the Town's issuance of a written Notice to Proceed.

2. PERFORMANCE MILESTONES

The following table identifies the minimum performance milestones applicable to each activation event. Milestones are measured from issuance of the Notice to Proceed (NTP) unless otherwise indicated.

Timeframe	Milestone / Deliverable	Description and Requirements
NTP + 0 hrs	Notice to Proceed Issued by Town	Town activates primary or secondary Contractor. Contractor acknowledges receipt in writing.
NTP + 24 hrs	Full Mobilization – Begin Debris Removal Operations	Contractor mobilizes all required personnel, equipment, and resources to Fort Myers Beach and commences debris removal operations. Failure to mobilize within 24 hours may result in activation of the Secondary Contractor and/or assessment of liquidated damages ($10,000/calendar day).
NTP + 48 hrs	Full Operational Capacity	Contractor achieves full operational capability, including removal teams, DMS coordination, debris monitoring support, and administrative tracking systems.
NTP + 0–72 hrs	Emergency Push / Road Clearance Phase	Contractor performs emergency push operations on primary transportation routes as directed by the Town. Estimated duration of approximately 72 hours from initial mobilization.
NTP + 2 days	Initial Removal Rate Established	Contractor achieves minimum initial debris collection rate of 3,000 cubic yards (CY) per day.
NTP + Day 6 onward	Escalating Removal Rate – Ramp-Up Phase	Contractor increases daily collection rate by a minimum of 3,000 CY per day above the prior day's rate, continuing until the sustained minimum daily rate is reached.
NTP + Day 6 (sustained)	Sustained Minimum Daily Rate	Contractor maintains a consistent minimum daily collection rate of 50,000 CY, or as modified by the Town based on event scope and need.
NTP + 15 days	Debris Reduction Rate Requirement Active	Vegetative debris reduction production rate (grinding/chipping/incineration) must meet or exceed the daily collection rate as of Day 15.
NTP + 90 days	DMS Site Management Plan Submission	Contractor submits to the Town three (3) copies of the site-specific Debris Management Site (DMS) Operations and Environmental Protection Plan.
NTP + 90 days	Hazardous and Industrial Materials Plan Submission	Contractor submits to the Town the Hazardous and Industrial Materials Cleanup and Disposal Plan.
Per Billing Period	30-Day Invoice Cycle	Contractor invoices the Town on a 30-day basis reflecting services through the close of business on the last working day of each billing period, supported by serialized load tickets and disposal documentation.

End of Each Pass	Load Ticket & Documentation Submission	All load tickets, scale tickets, and supporting disposal documentation submitted to the Town within 30 days of completion of each operational period or pass.
Collection Complete	Final Cleanup of Collection Site(s)	Contractor cleans all collection sites within 30 calendar days of receiving the last load of disaster-related debris and notice from the Town. Failure to meet this deadline is subject to liquidated damages ($1,000/calendar day).
Collection Complete	Final Project Documentation Submission	All final backup documentation reconciled and submitted in full no later than 60 days following the Town's issuance of the final Notice of Completion.
Project Closeout	Final Project Closeout Report	Contractor prepares and submits a detailed closeout report including total debris volume by type, total invoiced cost, damage log status, and all private property damage claim resolutions.
Annual	Pre-Event Training Day	Contractor provides a minimum of one (1) day (up to 8 hours) of on-site pre-event training for Town emergency management and recovery personnel at no additional cost to the Town.
Annual – Pre-Season	Coordination Meeting with Debris Monitoring Consultant	Contractor meets with the Town and the Town's Debris Monitoring Consultant to finalize and test documentation, inspection, and tracking processes prior to each hurricane season. May be combined with required annual training day.

3. AUTHORIZED WORK HOURS

3.1. Contractor(s) may conduct debris removal operations beginning 30 minutes prior to and 30 minutes after the published sunrise/sunset, seven (7) days per week, unless otherwise prohibited by Town ordinance or as directed by the Town.

3.2. Any mechanical debris reduction operations or burning operations authorized by the Town may be conducted twenty-four (24) hours per day, seven (7) days per week, or in accordance with applicable Local, State, or Federal requirements.

3.3. Any adjustments to authorized work hours shall be directed by the Town in writing following consultation with and notification to the Contractor(s).

4. LIQUIDATED DAMAGES SCHEDULE

4.1. The parties agree that actual damages resulting from the Contractor's failure to meet the performance milestones set forth in this Exhibit would be difficult or impossible to ascertain. Accordingly, the following liquidated damages are established as a reasonable pre-estimate of harm and not as a penalty. The application of liquidated damages does not release the Contractor from the underlying obligation to perform, nor does it limit the Town's other rights and remedies under the Contract.

4.2. The Town shall have the right to retain from any payment due the Contractor(s) under the Contract an amount sufficient to satisfy any liquidated damages assessed under this Exhibit.

#	Triggering Event	Amount
i	Failure to mobilize within 24 hours of Notice to Proceed	**$10,000 per calendar day of delay**
ii	Disaster debris collected in the Town disposed of at a non-County-approved DMS or non-designated Final Disposal Site	**$1,000 per load**
iii	Failure to sufficiently clean collection site(s) within 30 calendar days of receiving the last load of disaster debris and notice from the Town	**$1,000 per calendar day**
iv	Failure to repair damage caused by Contractor or its Subcontractor(s)	**$100,000 per incident, per day**
v	Contractor or Subcontractor leaves assigned zone to collect debris from another zone ("cherry picking"), or collects debris from outside of their assigned zone	**$1,000 per occurrence**
vi	Equipment leaves the Town prior to completion of the recovery effort without replacement with equal or better equipment, unless the Town determines downsizing is warranted	**$1,000 per day, per piece of equipment**

vii	Failure to maintain minimum processing rate — unprocessed material exceeds three (3) days of peak volume (not applicable where non-compliance is due to insufficient debris delivered)	**$1,000 per calendar day**
viii	Processed material stored more than ten (10) days after processing (not applicable where non-compliance is due to insufficient debris delivered)	**$1,000 per calendar day**

5. ACKNOWLEDGMENT OF WORK SCHEDULE

5.1. The Contractor acknowledges and agrees that the milestones, timelines, and liquidated damages provisions set forth in this Exhibit C are incorporated into and made part of the Contract. The Contractor further acknowledges that the performance timelines herein represent minimum requirements, and that the Town may, in its sole discretion, impose additional requirements or adjust timelines based on event-specific conditions communicated via written Notice to Proceed or task authorization.

5.2. Any modifications to this Exhibit must be made in writing and executed by both parties in accordance with the Changes provision of the Contract.

EXHIBIT “D”

SUPPLEMENTAL TASK AUTHORIZATION FORM

☐ following this page (pages ____ through ____)

☒ this exhibit is not applicable

EXHIBIT "E"

FLORIDA STATUTORY REQUIREMENTS

☒ following this page (pages 1 through 5)

☐ this exhibit is not applicable

FLORIDA STATUTORY REQUIREMENTS

1. E-Verify Compliance. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

2. Public records.

a. CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

    1. Keep and maintain public records required by the TOWN to perform the service.
    2. Upon request from the TOWN's custodian of public records, provide the TOWN 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 or as otherwise provided by law.
    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 this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the TOWN.
    4. Upon completion of this Agreement, transfer, at no cost, to the TOWN all public records in possession of CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If CONTRACTOR transfers all public records to the TOWN upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology systems of the TOWN.

b. "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.
c. If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.
d. CONTRACTOR consents to the TOWN's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a

mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by TOWN.

e. CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the TOWN.

f. **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, THE CONTRACTOR MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TOWN HALL
6231 ESTERO BLVD
FORT MYERS BEACH, FL 33931
239-765-0202
FMBPUBLICRECORDS@FMBGOV.COM

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the TOWN harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.0701(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. CONTRACTOR hereby certifies that CONTRACTOR is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. CONTRACTOR further hereby certifies that CONTRACTOR is not engaged in a boycott of

Israel or engaged in business operations in Cuba or Syria. CONTRACTOR understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject CONTRACTOR to civil penalties, attorney's fees, and/or costs. CONTRACTOR further understands that any contract with TOWN for goods or services of any amount may be terminated at the option of TOWN if CONTRACTOR (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of TOWN if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

5. Disclosure Requirements for "Foreign Countries of Concern". CONTRACTOR shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], 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."

6. Public Entities Crime or Convicted Vendor List. CONTRACTOR agrees and assumes a continuous duty to disclose to the TOWN if the CONTRACTOR or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

7. Data Management; Notice of Breach. CONTRACTOR shall cooperate with the TOWN and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the TOWN must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

8. Environmental and Social Government and Corporate Activism. The TOWN has not given preference or requested documentation from the CONTRACTOR based on CONTRACTOR's social, political or ideological interest. CONTRACTOR agrees to similarly not

request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

9. No Coercion for Labor or Services. CONTRACTOR swears under penalty of perjury that CONTRACTOR does not use coercion for labor or services as defined as follows:

"Coercion" means:

i. Using or threatening to use physical force against any person;

ii. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;

iii. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

iv. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

v. Causing or threatening to cause financial harm to any person;

vi. Enticing or luring any person by fraud or deceit; or

vii. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

10. Conflicts. By entering into this agreement, the Contractor represents that it currently is not providing professional services to any third party person or entity on any project or development for which project or development approval is currently pending or proposed or for which an application is being prepared for submittal to the TOWN of Fort Myers Beach for review or approval and further agrees that during the term of this agreement, the Contractor will not provide professional services to any third party person or entity as to any project or development for which development or project approval is pending or proposed or for which an application is being prepared for submittal to the TOWN of Fort Myers Beach for review or approval.

11. **Breach of Agreement for Goods or Services Related to Emergency Response for Natural Disaster Pursuant to Section 252.505, Florida Statutes.** Pursuant to Sec. 252.505, Fla. Stat., if Contractor breaches this agreement during an emergency recovery period (1-year period beginning upon Governor's initial declaration of a natural emergency) Contractor shall pay a $5,000 penalty and damages, which may be either actual and consequential damages or liquidated damages in addition to any other consequential damages or liquidated damages that may otherwise be due under the terms of the agreement.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., CONTRACTOR declares that CONTRACTOR has read the foregoing Paragraph 9 above and that the facts stated in it are true.

CONTRACTOR:
CrowderGulf Joint Venture, Inc.

By: Ashley Ramsay-Naile
Signature

Ashley Ramsay-Naile, President
↑Type/print signature and title↑

STATE OF ALABAMA

COUNTY OF MOBILE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 01 day of June, 2026, by Ashley Ramsay-Naile as President of CrowderGulf Joint Venture, Inc., a Florida Corporation on behalf of Ashley Ramsay-Naile, and he/she is personally known to me or has produced _____ as identification.

Kerrie A Noll
Signature of Notary Public - State of ~~Florida~~ Alabama

Kerrie A. Noll
Printed/Typed/Stamped Name of Notary
My commission expires:

KERRIE A. NOLL
NOTARY PUBLIC
ALABAMA STATE AT LARGE
MY COMMISSION EXPIRES
AUGUST 15, 2026

EXHIBIT "I"

FEDERAL CONTRACT PROVISIONS AND

ASSURANCES

☒ following this page

☐ this exhibit is not applicable

FEDERAL EMERGENCY MANAGEMENT AGENCY
PUBLIC ASSISTANCE

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In cases of disagreement with any other section of this contract, the Supplemental Conditions shall govern. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract.

Pursuant uniform requirements of federal awards (2 CFR Part 200.23) the definition of CONTRACTOR is an entity that receives a Contract / Purchase Order.

Compliance with Federal Law, Regulations and Executive Orders: The Sub-Recipient (Town) agrees to include in the subcontract that (i) the subcontractor is bound by the terms of the Federally-Funded Subaward and Grant Agreement, (ii) the subcontractor is bound by all applicable state and Federal laws and regulations, and (iii) the subcontractor shall hold the Town harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

Specifically, the Contractor shall be responsible for being knowledgeable and performing any and all services under this contract in accordance with the following governing regulations along with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

- 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 44 C.F.R. Part 206
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- FEMA Public Assistance Program and Policy Guide

Access to Records: 1) The contractor agrees to provide the Town, the Florida Department of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract. (4) In compliance with section 1225 of the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Buy Clean: The Town encourages the use of environmentally friendly construction practices in the performance of this Agreement. In particular, the Town encourages that the performance of this agreement includes considering the use of low-carbon materials which have substantially lower levels of embodied greenhouse-gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products as demonstrated by their environmental product declaration.

Changes: To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allowable, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.

DHS Seal, Logo, and Flags: The Town must obtain written permission from Department of Homeland Security prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials. The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Domestic Preference for Procurements: The Contractor should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.

For purposes of this section: "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Build America, Buy America Act (BABAA): FEMA Public Assistance Funding is not subject to Buy America preference pursuant the following guidance: Programs and Definitions: Build America, Buy America Act | FEMA.gov

License and Delivery of Works Subject to Copyright and Data Rights: The Contractor grants to the Town, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town data first produced in the performance of this contract and data

required by the contract but not first produced in the performance of this contract in formats acceptable by the Town.

No Obligation by Federal Government: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts: The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Prohibition on Covered Telecommunications Equipment or Services: (a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds forcovered Telecommunications Equipment or Services As used in this clause –

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing — (i). A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii). Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i). Covered telecommunications equipment or services that: a. Are not used as a substantial or essential component of any system; and b. Are not used as critical technology of any system. (ii). Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(3) Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph(e), in all subcontracts and other contractual instruments.

Providing Good, Safe Job to Workers: Pursuant to FEMA Information Bulletin No. 520, the contractor will comply with all applicable federal labor and employment laws. To maximize cost efficiency and quality of work, the contractor commits to strong labor standards and protections for the project workforce by creating an effective plan for ensuring high-quality jobs and complying with federal labor and employment laws. The contractor acknowledges applicable minimum wage, overtime, prevailing wage, and health and safety requirements, and will incorporate Good Jobs Principles wherever appropriate and to the greatest extent practicable.

Rights to Inventions Made Under a Contract or Agreement: Exempt from FEMA Public Assistance Funding

Socioeconomic Contracting: The Contractor is encouraged to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure small businesses, minority businesses, women's business enterprises, veteran owned businesses, and labor surplus area firms are considered when possible. Such consideration means: (1) These business types are included on solicitation lists; (2) These business types are solicited whenever they are deemed eligible as potential sources; (3) Dividing procurement transactions into separate procurements to permit maximum participation by these business types; (4) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types; (5) Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring a contractor under a Federal award to apply this section to subcontracts.

Suspension and Debarment: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (3) This certification is a material representation of fact relied upon by the Town. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contractors must sign and submit a debarment certification to the Town with each bid or offer. See Certifications and Assurances and the end of this document.

Procurement of Recovered Materials (§200.323) (Over $10,000) : In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired — a) Competitively within a timeframe providing for compliance with the contract performance schedule; b) Meeting contract performance requirements; or c) At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage: Comprehensive Procurement Guideline (CPG) Program | US EPA. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

The Contactor should, to the greatest extent practicable and consistent with the law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable.

Termination for Cause and Convenience (over $10,000) : See Standard Purchase Order and/or Contract Terms and Conditions

Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended) (over $100,000) : Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the Town who in turn will forward the certification(s) to the federal agency.

Contractors must sign and submit a lobbying certification to the Town with each bid or offer exceeding $100,000. See Certifications and Assurances and the end of this document.

Contract Work Hours and Safety Standards Act (CWHSSA) (40 U.S.C. 3701-3708) (over $100,000) : Where applicable, all contracts awarded by the solicitor in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section,

in the sum of $32 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1).

(3) Withholding for unpaid wages and liquidated damages—

(i) Withholding Process. The Town may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this paragraph (b) on this contract, any other federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

(ii) (ii) Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

(A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A contractor's assignee(s);

(E) A contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

(4) Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs (b)(1) through (5) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (5). In the event of any violations of these clauses, the prime contractor, and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

(5) Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

(ii) Filing any complaint, initiating, or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

(iv) Informing any other person about their rights under CWHSSA or this part."

Further Compliance with the Contract Work Hours and Safety Standards Act.

(1) The contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of three years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made; and actual wages paid.

(2) Records to be maintained under this provision must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job."

Clean Air Act (over $150,000) : 1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act (over $150,000) : 1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Administrative, Contractual, or Legal Remedies (over $250,000) : Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

Construction Activities
This provision is applicable to all federally assisted construction contracts, as that term is defined at 41 C.F.R. § 60-1.3. To the extent this Agreement meets this definition, Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

1) Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5) The Contractor will comply with the rules, regulations, and relevant orders of the Secretary of Labor.

6) The Contractor will furnish all information and reports required by rules, regulations, and orders of the Secretary of Labor, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7) In the event of the Contractor's noncompliance with the nondiscrimination clauses this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with authorized procedures, and such other sanctions may be imposed and remedies invoked as by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8) The Contractor will include the above applicable provisions in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

9) The Town further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the City is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

10) The Town agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

11) The Town further agrees that it will refrain from entering into any contract or contract modification with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to any applicable Executive Order and will carry out such sanctions and penalties for violation of any applicable clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor. In addition, the Town agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Subcontracting Contractor acknowledges that if Contractor intends to enter into subcontracts for any portion of the work under this Agreement, Contractor may take the affirmative steps described in 2 C.F.R. § 200.321 to ensure that small business firms, minority business firms, women's business enterprises, and labor surplus area firms are solicited when possible, to the extent doing so is consistent with applicable local, State, and Federal law.

Implementing the above provisions for new contracts should at least demonstrate that the Town is trying to comply with the ever-evolving rules and regulations, and as of now, we think this is enough. I'll make sure I keep you updated on any other actions that might become necessary in the future.

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

Copeland Anti-Kickback Act: Exempt under FEMA Public Assistance Funding

FEDERAL HIGHWAY ADMINISTRATION
EMERGENCY RELIEF (ER) PROGRAM

FHWA ER funding is applicable to debris removal based on declarations. A disaster declaration/proclamation is required, either from the President or the Governor, and FHWA must concur on a Governor's proclamation. However, in areas where FEMA Public Assistance is available following a natural disaster, debris removal will not be reimbursed by FHWA.

The following FHWA 1273 provisions are applicable only when an emergency declaration has been only been made by the Governor.

FHWA 1273 Exceptions:

IV. Davis-Bacon Act and Related Provisions: Exempt under FHWA Emergency Relief Funding

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Non-segregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
XI. Certification Regarding Use of Contract Funds for Lobbying
XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH–347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

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3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion–Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Compliance with Federal Law, Regulations, And Executive Orders and Acknowledgement of Federal Funding

Certification

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name CrowderGulf Joint Venture, Inc.

Date 04/08/2026

Authorized Signature Ashley Ramsay-Naile

Town of Fort Myers Beach

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (l)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Ashley Ramsay-Naile
Name

TTNUYNSBDQU4
SAM.gov Unique Entity ID (UEI) Number

President
Title

45ZE0
CAGE Number

CrowderGulf Joint Venture, Inc.
Firm

5629 Commerce Blvd. E Mobile, AL 36619
Street Address, City, State, Zip

Ashley Ramsay-Naile
Signature

TOWN OF FORT MYERS BEACH

ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT

Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.

A. PRIME VENDOR/CONTRACTOR INFORMATION

PRIME NAME	PRIME FEID NUMBER	CONTRACT DOLLAR AMOUNT
CrowderGulf Joint Venture, Inc.	01-0626019	TBD

IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?

VETERAN	Y (N)	
DBE?	Y (N)	
MBE?	Y (N)	
WBE?	Y (N)	
SDB 8A?	Y (N)	

IS THE ACTIVITY OF THIS CONTRACT...

CONSTRUCTION?	Y N
CONSULTATION?	Y N
OTHER?	Y (N)

IS THIS SUBMISSION A REVISION? Y (N) IF YES, REVISION NUMBER _____

B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION

DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
WBE	Hauling Away, LLC	Debris Hauling	NMW	TBD	TBD
MWBE	Last Pass, Inc.	Debris Hauling	HA W	TBD	TBD
			TOTALS:		

C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR

NAME OF SUBMITTER	DATE	TITLE OF SUBMITTER
CrowderGulf Joint Venture, Inc.	04/09/26	Ashley Ramsay-Naile President
EMAIL ADDRESS OF PRIME (SUBMITTER)	**TELEPHONE NUMBER**	**FAX NUMBER**
jramsay@crowdergulf.com	800-992-6207	251-459-7433

NOTE: This information is used to track and report anticipated DBE or MBE participation in federally-funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a contract, the prime will be asked to update the information for the grant compliance files.

ETHNICITY	CODE
Black American	BA
Hispanic American	HA
Native American	NA
Subcont. Asian American	SAA
Asian-Pacific American	APA
Non-Minority Women	NMW
Other: not of any other group listed	O

D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH

DEPARTMENT NAME	CONTRACT # (IFB/RFP or PO/REQ)	GRANT PROGRAM/CONTRACT

ACCEPTED BY:	DATE

Since the Town does not have a pre-established MWBE percentage or dollar amount goal, we have included TBD. CrowderGulf will work with the Town to meet any MWBE requirements and our steps to good faith efforts have been provided within our proposal.

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding $100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

CrowderGulf Joint Venture, Inc.
Contractor (Firm Name)

Ashley Ramsay-Naile
Signature of Contractor's Authorized Official

Ashley Ramsay-Naile, President
Name and Title of Contractor's Authorized Official

04/08/2026
Date

EXHIBIT "J"

OTHER EXHIBITS/ ATTACHMENTS

Description: AFFIDAVIT REGARDING LABOR AND SERVICES

☒ following this page (pages 1 through 1)

☐ this exhibit is not applicable

AFFIDAVIT REGARDING LABOR AND SERVICES

AND CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN PROHIBITED

Effective July 1, 2024, pursuant to § 787.06(13), Florida Statutes, when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services.

Effective January 1, 2024, a governmental entity may not accept a bid on, a proposal for, or a reply to, or enter into, a contract with an entity which would grant the entity access to an individual's personal identifying information unless the entity provides the government with an affidavit signed by an officer or representative under penalty of perjury attesting that the entity does not meet any of the following criteria: (a) the entity is owned by the government of a foreign country of concern; (b) the government of a foreign country of concern has a controlling interest in the entity; or (c) the entity is organized under the laws of or has its principal place of business in a foreign country of concern.

Effective July 1, 2025, when an entity extends or renews a contract with a governmental entity which would grant the entity access to an individual's personal identifying information, the entity must provide the governmental entity with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of the criteria in paragraphs (2)(a)-(c), § 287.138, Florida Statutes.

Nongovernmental Entity's Name:	CrowderGulf Joint Venture, Inc.
Address:	5629 Commerce Blvd. E Mobile, AL 36619
Phone Number:	800-992-6207
Authorized Representative's Name:	Ashley Ramsay-Naile
Authorized Representative's Title:	President
Email Address:	jramsay@crowdergulf.com

I, Ashley Ramsay-Naile (Name of Authorized Representative), as authorized representative attest under penalty of perjury that CrowderGulf Joint Venture, Inc. (Name of Nongovernmental Entity) does not: (1) use coercion for labor or services as defined in § 787.06, Florida Statutes, and (2) the nongovernmental entity is not (a) owned by a government of a foreign country of concern, (b) that a foreign country of concern does not have a controlling interest in the entity, and (c) that the entity is not organized under the laws of or has its principal place of business in a foreign country of concern, all as prohibited under § 287.138, Florida Statutes.

Under penalty of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

Ashley Ramsay-Naile 04/08/2026

(Signature of authorized representative) Date

STATE OF Alabama

COUNTY OF Mobile

Sworn to (or affirmed) and subscribed before me, by means of ☑ physical presence or ☐ online notarization this 8th day of April, 20 26, by Ashley Ramsay-Naile (Name of Affiant), who produced his Florida Driver's License as identification. Alabama license

Kerrie A Noll

Notary Public

Commission Expires 08/15/2026

KERRIE A. NOLL
NOTARY PUBLIC
ALABAMA STATE AT LARGE
MY COMMISSION EXPIRES
AUGUST 15, 2026

Personally Known ☑ OR Produced Identification ☐

Type of Identification Produced: _____

INDEPENDENT CONTRACTOR'S AGREEMENT

THIS INDEPENDENT CONTRACTOR'S AGREEMENT (hereinafter this "Agreement") is made and entered into this ____ day of _____ 2026, by and between the **TOWN OF FORT MYERS BEACH**, a Florida municipal corporation (hereinafter the "TOWN") and T.F.R. ENTERPRISES, INC., a Foreign Profit Corporation (hereinafter "CONTRACTOR").

WITNESSETH

WHEREAS, the TOWN is a Florida municipal corporation, having a responsibility to provide certain services to benefit the citizens of the TOWN OF FORT MYERS BEACH; and

WHEREAS, the TOWN has the full power and authority to enter into the transactions contemplated by this Agreement; and

WHEREAS, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates.

NOW THEREFORE in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1. **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.

2. **Agreement Overview.**

   a. Project Title and Description: Disaster Debris Removal and Disposal Services

   b. Procurement Method: Request for Proposal (RFP)

   c. External Funding Source(s):

   ☒ State funding (specify): FDEM

   ☒ Federal funding (specify): FEMA

   ☐ Other (specify): _____

   ☐ Not Applicable

d. Agreement Type:

☒ Defined Scope Agreement (specified recurrent services, subscriptions, single projects, and specific deliverables)

☐ ~~Agreement Utilizing Supplemental Task Authorizations (e.g. Continuing Services Agreement)~~

e. Term, Time, and Delivery:

☒ This Agreement has a Term of three (3) year(s) beginning on June 15, 2026 and ending on June 14, 2029, and may be renewed for up to two (2) additional Term(s) of one (1) year(s) each, upon agreement of the parties in writing.

☒ CONTRACTOR shall commence work under this Agreement immediately upon receipt by CONTRACTOR of the Notice to Proceed and must complete the work according to the schedule set forth in Exhibit "C". Liquidated damages, if any, will be assessed against CONTRACTOR for late completion as set forth in Exhibit "C".

f. Project Management:

TOWN's Project Manager		CONTRACTOR's Project Manager	
Name:	Jeff Hauge	Name:	Tipton F. Rowland
Title:	Director of Community Services	Title:	CEO
Phone:	239-765-0202	Phone:	512-260-3322
Email:	jhauge@fmbgov.com	Email:	tipton@tfrinc.com

g. Notice Addresses:

TOWN: Fort Myers Beach Town Council, Attn: Town Manager, 6231 Estero Blvd, Fort Myers Beach, Florida 33931

CONTRACTOR: T.F.R Enterprises, Inc., Attn: CEO, 601 Leander Drive, Leander, TX 78641

h. Exhibits: The Parties shall comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated herein by reference:

☒	Exhibit "A"	Scope of Work
☒	Exhibit "B"	Compensation and Pricing
☒	Exhibit "C"	Work Schedule
☐	Exhibit "D"	Supplemental Task Authorization Form

☒	Exhibit “E”	Florida Statutory Requirements
☐	Exhibit “F”	Attachment 8: Federal Regulations and Terms (Federal)
☐	Exhibit “G”	Additional Terms for State-Funded Agreements (_____)
☐	Exhibit “H”	Plans/Specifications/Shop Drawings
☒	Exhibit “I”	Federal Contract Provisions and Assurances
☒	Exhibit “J”	Other (Specify): Affidavit Regarding Labor and Services
☐	Exhibit “K”	Other (Specify): _____
☐	Exhibit “L”	Other (Specify): _____

i. ~~Additional Provisions:~~

3. Description of Work.

a. The TOWN hereby retains CONTRACTOR to furnish goods and/or services as described in the Scope of Work, which is attached hereto as Exhibit "A" and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in Exhibit "A" will be resolved in favor of the body of this Agreement.

b. CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Work, unless specifically excluded.

c. CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the TOWN, together with any addenda, hereinafter the “Bid Documents, as applicable.” The Bid Documents, if applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.

4. Supplemental Task Authorizations. The provisions of this paragraph only apply if “Agreement Utilizing Supplemental Task Authorizations” is checked in paragraph 2(d) (“Agreement Type”) above.

a. This Agreement anticipates a variety of projects being requested by the TOWN to be provided by the CONTRACTOR as determined necessary by the TOWN.

b. All work to be performed by CONTRACTOR under this Agreement shall be authorized in writing by the TOWN. Such authorization will be referred to as a “Supplemental Task Authorization” and shall reference this Agreement as the “Master Agreement”.

Supplemental Task Authorizations shall be in a form substantially similar to the form attached hereto as Exhibit “D” (if selected above in paragraph 2(k)).

c. Supplemental Task Authorizations shall contain a description of the work to be undertaken, a budget amount of the fee to be paid, and a time schedule.

d. Supplemental Task Authorizations may contain additional provisions specific to the authorized work for the purpose of expanding upon certain aspects of this Agreement pertinent to the work to be undertaken. Such supplemental instruction or provision shall not be construed as a modification to this Agreement.

e. When CONTRACTOR and the TOWN enter into a Supplemental Task Authorization wherein the term of the Supplemental Task Authorization expires on a date that is later than the date that this Agreement expires, the CONTRACTOR and the TOWN agree that the terms of this Agreement are automatically extended until the expiration or full completion of the requirements of the Supplemental Task Authorization has been performed. Cancellations by the TOWN of any remaining work prior to the full completion of the requirements of the Supplemental Task Authorization shall cause the terms of this Agreement to terminate at the same time. This provision shall only apply when the expiration of the Supplemental Task Authorization extends beyond the expiration of this Agreement. It does not apply when a Supplemental Task Authorization expires or is canceled prior to the expiration of this Agreement.

5. Payment.

a. The TOWN agrees to compensate CONTRACTOR, for work actually authorized and performed under this Agreement, at the rate or basis described in Exhibit "B", which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Work, but in no event will CONTRACTOR be paid more than the negotiated amount(s) set forth in Exhibit "B".

b. Payments shall be made in accordance with the Florida Local Government Prompt Payment Act in accordance with the payment schedule provided in Exhibit “B”.

c. Progress payments, if any, will be made as set forth in Exhibit "B".

d. The TOWN reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR’s obligations. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.

6. Project management. The Project Managers for this project are set forth above in paragraph 2 (“Agreement Overview”). Any subsequent changes to the Project Manager for either party may be provided by notice as described in paragraph 7 (“Notices”) below and does not require an amendment to this Agreement.

7. Notices. All notices to the parties under this Agreement must be in writing and sent certified mail to the addresses set forth above in paragraph 2 ("Agreement Overview").

8. Termination.

a. Termination at Will: This Agreement may be terminated by the TOWN in whole or in part at any time without cause by the TOWN giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

b. Termination for Cause: This Agreement may be terminated by either party for cause by the TOWN or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

9. General Provisions. CONTRACTOR must comply with the following general provisions:

a. Warranty. CONTRACTOR guarantees to repair, replace or otherwise make good to the satisfaction of the TOWN any defect in workmanship or material appearing in the work; and further guarantees the successful performance of the work for the service intended. Neither inspection nor payment, including final payment, by the TOWN will relieve CONTRACTOR from its obligations to do and complete the work in accordance with this Agreement. If the TOWN deems it inexpedient to require CONTRACTOR to correct deficient or defective work, the TOWN may make an equitable deduction from the contract price, or, in the alternative, the TOWN may seek damages. CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the TOWN) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the TOWN in writing if it appears, in CONTRACTOR's professional judgement that the data or information provided by the TOWN for use in CONTRACTOR's work product is incomplete, defective, or unreliable. CONTRACTOR guarantees to amend, revise, or correct to the satisfaction of the TOWN any error appearing in the work as a result of CONTRACTOR's failure to comply with the warranties and representations contained herein.

b. Bond. If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the TOWN, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the TOWN to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the TOWN. The TOWN will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to

CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the TOWN.

c. Insurance.

i. CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the TOWN from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.

ii. The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:

1. ■ **Commercial General Liability:** Coverage shall have minimum limits of **$** 1,000,000 Per Occurrence, **$** 2,000,000 aggregate for Bodily Injury Liability and Property Damage Liability. The General Aggregate Limit shall be endorsed to apply per project. This shall include Premises and Operations; Independent Contractors; Products and Completed Operations and Contractual Liability.

2. ■ **Business Auto Liability:** Coverage shall have minimum limits of **$** 1,000,000 Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include: Owned Vehicles, Hired and Non-Owned Vehicles and Employee Non-Ownership.

3. ■ **Workers' Compensation:** Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The coverage must include Employers' Liability with a minimum limit of **$** 1,000,000 for each accident.

4. ☐ ~~**Professional Liability:** Shall be maintained by the Contractor to ensure its legal liability for claims arising out of the performance of professional services under this Agreement. Contractor waives its right of recovery against the Town as to any claims under this insurance. Such insurance shall have limits~~ of not less than **$** _____ each claim and aggregate.

5. ☐ ~~**Cyber Liability:** Coverage shall have minimum limits of **$** _____ per claim.~~

6. ☒ Pollution: Coverage shall have minimum limits of **$** 1,000,000 per claim/Occurrence

~~7.~~ ☐ _____: ~~Coverage shall have minimum limits of **$** _____ per claim/Occurrence.~~

~~8.~~ ☐ _____: ~~Coverage shall have minimum limits of $ _____ per claim/Occurrence.~~

iii. CONTRACTOR must furnish the TOWN with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The TOWN is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the TOWN before commencement of any work activities.

iv. The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self–insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

d. Compliance with Federal, State, and Local Laws. CONTRACTOR and CONTRACTOR's agents shall comply with all federal, state and local regulations, including those now in effect and hereafter adopted, and including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements.

e. Personal nature of Agreement; Assignment.

1. The parties acknowledge that the TOWN places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the TOWN.

2. If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the TOWN Project Manager

prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.

f. Independent contractor.

1. CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the TOWN. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the TOWN. None of the benefits, if any, provided by the TOWN to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the TOWN to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the TOWN and is subject to the TOWN's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The TOWN will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.

2. CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.

3. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

g. Indemnification.

1. CONTRACTOR must indemnify and hold the TOWN harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the TOWN, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR must

further indemnify the TOWN against any claim that any product purchased or licensed by the TOWN from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the TOWN by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the TOWN and not considered to be the TOWN's exclusive remedy.

2. In the event that any claim in writing is asserted by a third party which may entitle the TOWN to indemnification, the TOWN must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the TOWN decides to participate in the proceeding or defense, the TOWN will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.

3. The indemnification provisions of this paragraph will survive the termination of this Agreement.

h. Sovereign Immunity. Nothing in this Agreement extends, or will be construed to extend, the TOWN's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the TOWN to be sued by third parties in any matter arising out of this Agreement.

10. Miscellaneous Provisions. The following miscellaneous provisions apply to this Agreement:

a. **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.

b. **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the TOWN staff do not suffice to legally bind the TOWN in a

contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized TOWN representatives.

c. **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.

d. **Non-appropriation.** TOWN's performance and obligation to pay under this Agreement is contingent upon an appropriation during the TOWN's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the TOWN Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the TOWN subject to the TOWN paying all invoices for services rendered during the period the Agreement was funded by appropriations.

e. **Taxes.** The TOWN shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the TOWN is exempt from same by Florida law, including but not limited to any sales or use tax.

f. **Severability**. If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.

g. **Construction**. If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.

h. **Headings**. All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.

i. **Waiver**. The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the TOWN's rights under this Agreement,

or of any cause of action the TOWN may have arising out of the performance of this Agreement.

j. **Force Majeure**. Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Work" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.

k. **Law; Venue.** This Agreement is being executed in Lee County, Florida and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Lee County, Florida.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective the date first written above.

ATTEST:

TOWN OF FORT MYERS BEACH, FLORIDA

By: _____

By: _____

William McKannay, Town Manager

Dated: _____

(SEAL)

Contractor's Witnesses:

T.F.R Enterprises, Inc.

Contractor

Tiffany J. Jean Digitally signed by Tiffany J. Jean Date: 2026.06.02 11:06:39 -05'00'

Contractor's First Witness

Tiffany J. Jean

↑Type/print witness name↑

Allie Potts Digitally signed by Allie Potts Date: 2026.06.02 11:07:41 -05'00'

Contractor's Second Witness

Allie Potts

↑Type/print witness name↑

By: Tipton Rowland Digitally signed by Tipton Rowland Date: 2026.06.02 11:04:54 -05'00'

Signature

Tipton F Rowland

↑Type/print signature and title↑

Approved as to Form and Legality:

_____

Town Attorney

_____

Print Name

EXHIBIT "A"

SCOPE OF WORK

☒ following this page (pages 1 through 19)

☐ this exhibit is not applicable

EXHIBIT "A" - SCOPE OF WORK

*Secondary T.F.R. Enterprises, Inc.

1. GENERAL SCOPE OF WORK

1.1. The Town of Fort Myers Beach seeks to contract with a qualified Vendor to provide a variety of disaster recovery related services for Fort Myers Beach, Florida. These services will be on an as-needed basis with no work guaranteed. Not all tasks will be assigned for all events. Services shall include but are not limited to: Large and small scale debris removal projects, separation, staging, disposal, demolition work, vegetative and construction and demolition debris removal, hazardous waste handling, hazardous tree trimming and removal, stump grinding and removal, sand removal from roads, streets, and right-of-ways, and all additional scopes of work as described herein.

1.2. The Town anticipates the award of one primary contract and one secondary standby contract as a result of this Request for Proposals, including the designation of a Primary Debris Removal Operations Contractor and a Secondary Debris Removal Operations Contractor. The Primary Contractor will be utilized at the Town's discretion, with the Secondary Contractor available for activation as needed based on event magnitude, operational capacity, timeline requirements, or at the direction of the Town. No minimum amount of work is guaranteed to either Contractor.

1.3. All work under this RFP shall be performed in accordance with current FEMA PAPPG or other current FEMA rules and guidelines for federal reimbursements and with 2 CFR 200.317-326 as updated and where applicable.

2. DEFINITIONS

- **Contractor / Firm** – The successful proposer (s)
- **Debris Monitoring Consultant** - A Consultant retained by the Town to manage administrative aspects of the recovery process including processing FEMA submittals.
- **Debris** – Scattered items and materials broken, destroyed, or displaced by a disaster, Example; trees, construction and demolition material, personal property.
- **FEMA** – Federal Emergency Management Agency
- **FDEM** – Florida Division of Emergency Management
- **DMS** – Debris Management Site- Predetermined site location for either temporary staging or final destination.
- **Storm Litter** - Debris such as leaves and small twigs that would normally require hand raking to collect. Does not include debris easily picked up by hand.
- **Government -** The term "government" as used in this Contract refers to those governmental agencies, which may have a regulatory or funding interest in this Contract.

3. CONTRACTOR RESPONSIBILITY & ADDITIONAL SCOPE CONDITIONS

3.1. The Contractor(s) may be called upon throughout the contract to render services to assist the Town with special needs and events related to disaster recovery and/or planning activities other than full-scale disasters. Each year of this contract, the Contractor(s) shall provide a minimum of one (1) day (up to 8 hours) of on-site, pre-event training of the Town's emergency management and recovery personnel at no additional charge to the Town.

3.2. The Contractor(s) shall provide technical guidance and consultation before, during, and after the disaster event. For contracted operations, the Contractor(s) shall provide trained administrative support, onsite management staff to work with Town officials, field supervisors, operators, drivers, laborers, and all associated vehicles, equipment, tools, and supplies necessary to ensure a successful recovery operation.

3.3. The selected Contractor(s) shall be responsible for knowledge and compliance with all federal, state, and local laws, rules, practices, and regulations. The Contractor(s) shall be familiar with the Towns's approved debris management plan.

3.4. No guarantee is expressed or implied as to the quantity of services to be procured under this request for proposal; no work is guaranteed.

4. INITIATING CONTRACT WHEN A MAJOR DISASTER OCCURS OR IS IMMINENT

4.1. When a major disaster occurs or is imminent, the Town will contact the firm(s) holding Disaster Recovery Services Contract(s) to advise them of the Town's intent to activate the contracts. Debris removal will generally be limited to debris in, upon, or brought to public streets and roads, right-of-ways, municipal properties and facilities, and other public sites, unless otherwise directed.

4.2. The Town, upon contacting the Contractor(s), will issue a Notice to Proceed and work order assignment/task authorization. The issuance of the work order/task authorization will allow the Contractor(s) to begin pre-storm preparations and allow the immediate response once the recovery begins. The Contractor(s) shall also begin coordination with local, state, and federal representatives.

4.3. The Contractor(s) shall have a maximum of 24 hours from a Notice to Proceed by the Town to mobilize and begin their response. Failure to mobilize in the allowed time may result in the activation of the Secondary Contractor and/or liquidated damages.

4.4. The Contractor(s) shall be responsible for determining the method and manner of debris removal and for conducting lawful disposal operations, including regulated hazardous waste. The Town will determine the primary location of the reduction and disposal sites in consultation with Contractor(s). Additional sites may be utilized as directed and/or approved by the Town. All debris must be staged and disposed of only at properly permitted locations. All eligible loads must be quantified properly in one of the following methods: Per each item in the load (i.e. stumps), or either in Tons or Cubic Yards. Any loads not quantified properly will be subject to review for ineligibility and removal.

4.5. For "Event Types" that require Temporary Debris Staging and Reduction Sites (DMS) the Contractor(s) shall be available for technical assistance to assist the Town in determining which pre-approved DMS will be used. Selection of these sites is to be the first task completed by the Debris Management Team. With the completion of this initial task, the result will be a map of the various sites and a basic operation plan for each site.

5. RELATIONSHIP BETWEEN DEBRIS MONITORING CONSULTANT & DEBRIS REMOVAL CONTRACTOR

5.1. The Town's Debris Monitoring Consultant and/or Town Staff provide inspection, engineering, and administrative services as needed to meet the requirements for FEMA reimbursement. The

interaction between the Contractor(s) and the Consultant is crucial to the success of the response operation. Therefore, each Contractor shall be capable of working with different accounting and tracking systems.

5.2. Prior to the beginning of each hurricane season, the successful Contractor(s) shall meet with the Town and the Debris Monitoring Consultant to finalize and test the processes for inspection and documentation that are to be used during the response and recovery phase of debris removal. This meeting is to occur annually or may be included as part of the required training day.

5.3. The Contractor(s) shall fully cooperate with the Town's Debris Monitoring Consultant and Town representatives. All debris collection, hauling, reduction, and disposal operations must be documented using load tickets and monitoring procedures approved by FEMA.

The Contractor(s) shall provide access to vehicles, staging areas, disposal sites, and operational records as requested by the Town or its monitoring consultant. Debris shall not be removed from designated collection areas without appropriate monitoring documentation unless otherwise directed by the Town.

6. SCOPE OF WORK

6.1. Contractor(s) shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver the timely removal and lawful disposal of all eligible storm-generated debris, including hazardous and industrial waste materials; and shall be provided in accordance with the Standards of Performance as set forth in Section 7. Emergency push, debris removal and demolition of structures will be limited to:

a) That which is determined to eliminate immediate threats to life, public health, and safety; and
b) That which has been determined to eliminate immediate threats of significant damage to improved public or private property; and
c) That which is considered essential to ensure the economic recovery of the affected community to the benefit of the community at large.

These contracted services shall provide for the cost effective and efficient removal and lawful disposal of debris accumulated on all public, residential, and commercial properties, streets, roads, other rights-of-way and public-school properties, including any other locally owned facility or site as may be directed by the Town. Contracted services shall only be performed when requested and as designated by Town via a Notice to Proceed.

Contractor(s) shall load and haul the debris from within the legal boundaries of the municipality to a final disposal location defined by the Town, or to Debris Management Site (DMS) site(s) and as specified by the Town and set out in Section 9.8 of this Contract.

Furthermore, the vendor shall provide services as necessary to assist in the event of any Local, State, or Federal State of Emergency is declared.

6.2. Emergency Push / Road Clearance

If directed by the Town, Contractor(s) shall accomplish the cutting, tossing and/or pushing of debris from the primary transportation routes as identified by and directed by the Town. This

operational aspect of the scope of services shall be for the first 72 (plus or minus) hours after mobilization of 100% of the resources pursuant to Section 8.2. Once this task is accomplished, the following additional tasks shall begin as required.

6.3. Right-of-Way (ROW) Removal

Contractor(s) shall remove all debris from the ROW when directed to do so by Town. Contractor(s) shall use reasonable care not to damage any real or personal property not already damaged by the storm event. Damages shall be handled pursuant to section 9.5.

6.4. Right-of-Entry (ROE) Removal *(if Task Authorized by Town)*

Contractor(s) shall exercise due diligence in removing ROE debris from private property, as authorized and directed by the Town. The Contractor(s) also agrees to make reasonable efforts to save from destruction of items that the property owners wish to save (i.e., trees, small buildings, etc.). Contractor(s) shall exercise caution when working around public utilities (i.e., gas, water, electric, etc.). Every effort will be made to mark these utilities, but Town does not warrant that all utilities will be located before debris removal operations begin, nor does Contractor(s) warrant that utility damages will not occur as a result of properly conducting Contracted services.

6.5. Demolition of Structures *(if Task Authorized by Town)*

Contractor(s) shall remove structures designated for removal by and at the direction of Town, in a timely manner as determined by Town.

6.6. Private Property Waivers

Town will secure all necessary permissions, waivers and Right-of-Entry Agreements from property owners required for the lawful removal of debris and/or demolition of structures from their properties.

6.7. Sand / Soil Collection & Screening

Includes pick-up, screening, and return of screened sand and soil to designated staging areas. The Town shall designate the Debris Management Site (DMS) to be utilized for sand and soil collection, processing, and screening activities. All sand and soil collected, processed, and screened under this contract shall remain the property of the Town. The Contractor(s) shall perform all collection, screening, handling, staging, and return of sand and soil at the Town-designated DMS in accordance with Town direction and all applicable County, State, and Federal requirements.

6.8. Disaster Recovery Technical Assistance

Contractor(s) shall provide Disaster Recovery Technical Assistance, to officials within Town and designated staff members, to assist a local government with guidance and consultation on all aspects of the recovery process.

6.9. Vegetative Debris Reduction

The Town reserves the right, at its sole discretion, to designate a separate Debris Management Site (DMS) for the collection and staging of processed vegetative material, including mulch. If such a site is designated, all processed material delivered to that site shall remain the property of the Town. The Contractor(s) shall transport, stage, and manage the processed material at the Town-designated location in accordance with Town direction and all applicable County, State, and Federal requirements. Contractor(s) shall reduce the vegetative debris prior to taking it to the Town's designated final site(s). This shall be performed through either a burning or chipping process. The Town will decide which means is the better method at the time. Required permits

are the responsibility of the Contractor(s). Reduction in production rates will be sufficient to meet or exceed the daily collection rate after the fifteenth (15) day. Direct hauling of vegetative debris from the ROW collection point to final disposal site, where the material will not be delivered to or managed at a DMS, will not require reduction and will not be subject to site management or reduction fees.

6.10. Construction and Demolition (C&D) Debris Removal

Contractor(s) shall collect, consolidate, and remove C&D debris to a location designated by the Town. The production rate of this effort will be determined by the Town and will be based on the volume of C&D estimated. The production rate should be similar to the vegetation rate. Direct hauling of Construction and demolition debris from the ROW collection point to final disposal site, where the material will not be delivered to or managed at a DMS for reduction or recycling, will not be subject to site management or reduction fees.

6.11. Construction and Demolition (C&D) Debris Recycling & Reduction

When directed, the Contractor(s) shall sort the C & D and make every effort to recycle as much material as possible to reduce the overall volume transported to the landfill. Funds generated from the recycling process shall be used to reduce the final cost to the Town. The Contractor(s) is responsible for handling and proper removal of all environmental hazards collected such as refrigerants in air conditioners and refrigerators, batteries, household hazardous waste, etc. When directed and due to C&D volumes that justify the use of a DMS, the Town will work with the Contractor(s) and FDEP to establish an approved DMS suitable for C&D, including detailed site plans and required environmental protection protocols including but not limited to pre and post use monitoring prior to the use of a DMS for the staging, recycling, and reduction of C&D debris. Cost for environmental monitoring or testing shall be a pass through to the Town without profit unless otherwise agreed or initiated and managed by the Town. The method of size reduction shall be determined based on the material make-up and the fees for reduction shall be based on the type of equipment used as quoted or as allowed per negotiation for non-quoted specialty equipment.

6.12. Specialized Crews

If requested by the Town, the Contractor(s) shall provide a dedicated crew to collect specific debris piles that cause health and safety issues around hospitals, public schools, Town facilities, or other type properties.

7. PERFORMANCE OF SERVICES

7.1. Description of Service

Contractor(s) agrees to perform Contracted services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations and permits. Only the highest quality workmanship shall be acceptable. Services, equipment, and workmanship not conforming to the intent of Contract or meeting the approval of Town may be rejected. Replacements and/or rework, as required, shall be accomplished at no additional cost to the Town.

7.2. Cost of Services

Contractor(s) shall bear all of its own operating costs and is responsible for all permits, license fees, and maintenance of its own trucks and equipment to keep such property in a condition and manner adequate to accomplish contracted services.

7.3. Sub-Contractors

Contractor(s) may utilize the services of Sub-Contractors and shall be responsible for the acts or omissions of its Sub-Contractors to the same extent Contractor(s) is responsible for the acts and omissions of its own employees. Contractor(s) shall ensure that all its Sub-Contractors have and carry the same major provisions of this Contract and that the work of their Sub-Contractors is subject to said provisions. Nothing contained in this Contract shall create any contractual relationship between any Sub-Contractors and the Town. Contractor(s) shall supply the names and addresses of Sub-Contractors and materials suppliers when requested to do so by the Town.

8. STANDARDS OF PERFORMANCE

8.1. Contractor Representative

Contractor(s) shall have a knowledgeable and responsible representative report to Town's designated Contract representative within 24 hours following the execution of this Contract. The Contractor's representative shall have the authority to implement all actions required to begin the performance of contracted services as set out in this Contract and Contractor's General Operations Plan. A Contractor(s) representative shall remain locally during the duration of recovery efforts and be available to routinely meet with Town contract administrator. The Contractor(s) shall also provide reports on debris removal operational progress as requested.

8.2. Mobilization

The Contractor(s) shall have sufficient equipment and forces in Fort Myers Beach within 2 days of "notification to proceed" to begin removal operations at an initial rate of 3,000 cy per day and increasing that rate, after the sixth day, by a minimum of 3,000 cy each day, building to a consistent, minimum daily rate of 50,000 cy of debris collected, or as modified by the Town based on need of the storm event(s). Additional resources may be required to meet the debris activities based on the scope and impact of the event. Adjustments to these minimums may be approved by the Town based on the size and scope of the disaster event.

8.3. Time to Complete

Contractor(s) shall use all efforts to complete all work directed under this Contract as soon as feasibly possible, and in accordance with established timelines for completion of debris related activities for the specific event, as defined by FEMA or other federal reimbursement program guidelines or as agreed to with the Town. Town will direct the scope and nature of the work to be performed once the extent of damage has been determined.

8.4. Completion of Work

Contractor(s) shall be responsible for removal of all debris up to the point where remaining debris can only be described as storm litter and additional collection can only be accomplished by the use of hand labor and all DMS mitigation and damages by Contractor(s) have been resolved.

9. GENERAL RESPONSIBILITIES

9.1. Town Obligations

Town will furnish all information and documents necessary for the commencement of contracted services, including a written Notice to Proceed. A representative will be designated by the Town to be the primary point of contact for inspecting the work and answering any on-site questions prior to and after activation of this Contract via a written Notice to Proceed.

Town will be responsible for issuing all Public Service Announcements (PSAs) to advise citizens and agencies of the available debris management services. Contractor(s) may assist

Town with the development of debris management PSAs, if so requested.

9.2. Contractor's Conduct of Work

Contractor(s) shall be responsible for planning and conducting all operations in a satisfactory workmanship manner. Contractor(s) shall demonstrate and maintain a courteous and responsive demeanor toward all citizens, especially when working on individual private properties. All operations shall be conducted under the review of a Town representative at times, places, and by means as directed by Town. Contractor shall have and require strict compliance with the written Code of Ethics to be provided by Town.

9.3. Supervision by Contractor

Contractor(s) shall supervise and/or direct all contracted services performed by its employees, agents and Sub-Contractors. Contractor(s) is solely responsible for all means, methods, techniques, safety, and other procedures. Contractor(s) shall employ and maintain a qualified supervisor at the work site who shall have full authority to act on behalf of Contractor(s). All communications given to the supervisor by Town's authorized representative shall be as binding as if given to Contractor(s). Multiple work sites will require equal supervision as outlined above. Contractor(s) must ensure that sufficient supervision is provided to manage multifaceted debris management operations that may include projects that require separate coordination, tracking, and documentation; additional supervision and/or project management staff shall be provided if requested by the Town for these projects.

9.4. Damages by Contractor

Contractor(s) shall be responsible for conducting all operations, in such a manner as to cause the minimum damage possible to existing public, private, and commercial property and/or infrastructure. Contractor(s) shall also be responsible for any damages due to the negligence of its employees and Sub-Contractors. Should any property be damaged due to negligence on the part of Contractor(s), the Contractor(s) shall repair damages promptly and at no additional cost to the Town; repairs must be sufficient and a release from claim of damage must be signed by the parties involved. If repairs are not made promptly or sufficiently as to obtain the signed release from claim, the Town may elect to coordinate or hire an outside vendor to make the required repairs and will either bill the Contractor(s) for the damages or withhold funds due to the Contractor(s). Town shall make the determination of whether "negligence" has occurred. Contractor(s) shall respond to all damage complaints within 48 hrs. of receipt and maintain a Damage Log tracking all damage complaints including date and point of contact, proposed resolution, status of repairs or settlement, and date of documented release. Contractor(s) shall review this list with Town designated contract manager for a minimum of weekly and provide copies of all releases. All Contractor(s) damages must be resolved prior to project closeout unless otherwise agreed to by Town. If at any time the damage list exceeds 25 open claims without scheduled repairs or at the discretion of the Town, the Contractor(s) shall provide, at no additional cost to the Town, a dedicated staff member to resolve damage claims.

9.5. Contractor's Duty Regarding Other Contractor(s)

Contractor(s) acknowledges the presence of other Contractors involved in disaster response and recovery activities by the federal, state and local government and of any private utility, and shall not interfere with their work.

9.6. Contractor's Ownership of Debris: Excluding Piled or Dunned Sand

Unless otherwise directed by Town, all debris, excluding sand, but including regulated hazardous waste, shall become the property of Contractor(s) for removal and lawful disposal. The debris will consist of, but not be limited to: vegetative, construction and demolition, white

goods, and household solid waste. Disposal costs at non-designated disposal locations shall be passed through to the Town without mark-up on the monthly invoices.

9.7. Contractor's Disposal of Debris

Unless otherwise directed by Town, Contractor(s) shall be responsible for determining and executing the method and manner for lawful disposal of all eligible debris, including regulated hazardous waste. Town shall determine the primary location of the reduction and disposal sites in consultation with Contractor(s). Additional sites may be utilized as directed and/or approved by Town.

9.8. Debris Management Site (DMS)

9.8.1. Site Setup

Prior to beginning operation at a debris management site, the condition of the site shall be photographed, or video recorded by the Contractor(s) and its condition documented and agreed upon by the Town, Contractor(s), and Property Owner if applicable. As directed by the Town, baseline environmental assessments shall be performed and supplied for Town review. Site setup shall be completed by the Contractor(s) to include but not limited to, grubbing, silt fencing, all weather tower construction and/or rental, and site operation plan. Town shall approve additional materials if determined necessary to provide for safe access to the site, costs for these materials shall be a pass-through cost without mark-up.

9.8.2. Site Operation

Debris shall be stored in accordance with all federal, state, and local regulations. Fire lanes and adequate access shall be provided. Debris reduction activities shall be performed at each DMS as to maintain the safe and efficient operation of the site.

9.8.3. Site Remediation

Debris management sites shall be returned to equal or better than original condition and to the satisfaction of Town. Contractor(s) shall be responsible for any damages pursuant to section 9.4.

9.8.4. Site Security

Contractor(s) shall supply twenty-four (24) hours per day security for the DMS sites to ensure unlawful or unauthorized dumping of debris does not occur. Unauthorized debris shall become the responsibility of the Contractor(s) and must be disposed of lawfully and without additional costs to the Town.

9.8.5. Debris Management Site (DMS)

The Town will have interlocal agreement with Lee County that may allow for the use of County-approved Debris Management Sites (DMS). When applicable, the Contractor(s) shall coordinate debris operations at such sites in accordance with the terms of the interlocal agreement and any applicable County, State, and Federal requirements. Use of County-approved DMS sites does not relieve the Contractor(s) of responsibility for coordination, compliance, documentation, access control, monitoring, or operational support associated with debris management activities.

The Debris Monitoring Team will determine the minimum number of sites required for each storm event. Lee County will designate the DMS to be activated. The County will select these sites at the beginning of each hurricane season. Preparation, maintenance,

and operation of these DMS facilities are entirely the Contractor's responsibility.

Preparation and maintenance of facilities shall include maintenance of the DMS approach and interior road(s) for the entire period of debris hauling, including provision of rock for any roads that require stabilization for ingress and egress. Each facility shall include a roofed inspection tower sufficient for a minimum of three (3) inspectors for the inspection of all incoming and exiting loads. The Contractor(s) will be responsible for obtaining any required permits, which shall be paid at cost by the Town. At the Town's discretion, owned rights of way or other entity owned property could be provided for temporary storage of debris.

If needed, additional Contractor(s) identified DMS sites may be considered for approval by the Town. Lease agreements, between the Contractor(s) and the property owner, for these properties may be executed by the Contractor(s) with approval from the Town. Management of these sites shall be subject to all terms outlined in this document, including but not limited to DMS management, environmental controls, and site remediation.

9.8.6. DMS Debris Removal Operations Plan and Environmental Protection Plan

Contractor(s) shall provide within 90 days of execution of this contract, their generic site management plan. Once the debris management site is selected for use, the Contractor(s) shall provide a Site Management Plan. This plan is to address site setup, pre-use activities, post-use activities and operational activities. The plans shall include pre-and-post video and other checklists to ensure proper management of the site. Contractor(s) shall submit three (3) copies of the plan. The plan shall be drawn to a scale of 1" = 50' and address the following functions:

- Access to site
- Site preparation -clearing, erosion control, and grading
- Traffic control procedures
- Safety
- Segregation of debris
- Location of ash disposal area, hazardous material containment area, Contractor(s) work area, and inspection tower
- Location of incineration operations, grinding operation (if required). Burning operations require a 100-foot clearance from the stockpile and a 1000-foot clearance from structures.
- Location of existing structures or sensitive areas requiring protection
- Restoration of Site

9.8.7. Debris Processing and Classification

All debris shall be processed in accordance with local, state and federal law, standards, and regulations. Processing shall include, but is not limited to, reduction by grinding and/or incineration when approved by the Town. Prior to reduction, all debris shall be segregated by common waste material classifications; e.g., vegetative debris, construction and demolition debris, recyclable debris, white goods, hazardous waste, etc.

9.8.8. Generated Hazardous Waste Abatement

Abatement of hazardous waste identified by the Town is to be disposed of in accordance with all applicable Federal, State, and local laws, standards, and regulations.

9.8.9. Debris Disposal

Disposal of all eligible debris, reduced debris, ash residue and other products of the debris management process shall be in accordance with all applicable Federal, State, and local laws, standards, and regulations. Unless otherwise directed by the Town, the Contractor(s) shall be responsible for paying all landfill tipping or disposal fees and provide all scale tickets or other related & required documentation to the Debris Monitoring Consultant needed to receive eligible reimbursement through FEMA and (FHWA) for such fees.

Tipping or Disposal Fees at Final Disposal Sites shall be passed through to the Town at cost without mark-up or escalation.

Unless otherwise notified, Tipping or Disposal costs for debris disposed of at approved Lee County owned and operated Final Disposal Sites, shall be the responsibility of the Town; in lieu of pass-through debris disposal costs. Disposal fees shall be the normally posted gate fees and be reconciled against load and scale tickets in the same manner as Contractor(s) paid disposal fees. Tipping fees for debris from ineligible work, not approved by the Town, shall be the responsibility of the Contractor and deducted from the invoice.

9.8.10. Debris Monitoring Assistance

Assistance to the Debris Monitoring Consultant by the Contractor(s) shall include, but is not limited to the following:

- Monitoring multiple Contractors and multiple trucks delivering materials to the DMS.
- Verify that each truck that delivers to the DMS matches its manifest ticket – truck and maximum capacity.
- Make sure load is properly secured for transport.
- Photograph of each loaded truck bed and attach photograph to truck's manifest ticket or link with digital photographic records, as applicable.
- Review trucks manifest and observe the truck bed to confirm that the truck was loaded to capacity or as described on manifest ticket, and completely empty on departure.
- Maintain manifest tickets in an organized manner for proper record review and storage.
- Initial load tickets before permitting truck to leave the DMS check-in area to empty its load.
- Document location of origin of debris.
- Troubleshoot questions and problems at the DMS and identify issues that could impact eligibility for cost reimbursements.
- Remain in contact with the central office/staging operation command center.
- Perform other duties as directed by Town personnel, e.g., conduct final inspections and issue closeout reports.

9.8.11. Training

Contractor(s) shall provide training annually. Training shall take place for a minimum of one (1) day, for up to eight (8) hours of on-site. Training shall consist of pre-strike training for Town field and supervisory personnel.

10. SCOPE OF SERVICES

10.1. Geographic Assignment

The geographic boundary for work by Contractor's crews shall be only as directed by Town and will be limited to properties located within the Town's jurisdictional boundaries. Collection activities shall be monitored, and crews shall be responsible for providing detailed information of collection locations as requested.

10.2. Multiple, Scheduled Passes

Contractor(s) shall make complete scheduled passes at the direction of Town and/or unscheduled passes of each area impacted by the storm event. Town shall direct the interval timing of all passes. Passes shall be complete only when Town deems they meet the definition outlined in section 8.4. Sufficient time shall be permitted between subsequent passes to accommodate reasonable recovery and additional debris placement at the ROW by the citizens and the Town.

10.3. Operation of Equipment

Contractor(s) shall operate all trucks, trailers, and all other equipment in compliance with any/all applicable federal, state and local rules and regulations. Equipment shall be in good working condition, with no fluid leaks, and must have an enclosed rear or operable tailgate. NO unapproved improvised tailgates are allowed, e.g. chain link fencing, etc. All loading equipment shall be operated from the road, street or ROW using buckets and/or boom and grapple devices to collect and load debris. No equipment shall be allowed to operate on private property or outside of the public ROW unless otherwise directed by Town. Damages by the Contractor(s) or its representative shall be the Contractors responsibility and repaired at no additional cost to the Town as outlined in section 9.4. Should operation of equipment be required outside of the public ROW, Town will provide a Right-of-Entry Agreement, as set out in Section 6.6 of this Contract.

10.4. Certification of Load Carrying Capacity

Contractor(s) shall submit to Town a certified report indicating the type of vehicle, make and model, license plate number and/or trailer VIN number, assigned debris hauling number and measured maximum volume, in cubic yards, of the load bed of each piece of equipment to be utilized to haul debris. This report shall be maintained, updated, and provided to the Town whenever equipment is added or deleted.

The measured volume of each piece of equipment shall be calculated from the actual physical measurement performed by Town, Town's Debris Monitoring Contractor(s), and Contractor(s) representatives at a Town designated location. A standard measurement form certifying actual physical measurements of each piece of equipment, including side boards and deductions shall be an attachment to the certified reports submitted to Town.

Each vehicle shall be measured for cubic yard capacity. Each vehicle shall have one numbered certification form prepared with a written description of the measurements, detailed diagram showing the overall inside dimensions, the dimensions of any and all, side boards, and/or deductions, and photograph attached. Deductions, such as doghouses, slant plates, etc. shall be shown as a deduction from the total cubic yards. Example: Measure and diagram length times Width times Height divided by 27= Total CY. Second, measure and diagram the "deduction item" and subtract from the total CY. This is the number that will be certified on the certification form and the placard placed on the vehicle. Certification forms shall be in triplicate, sequentially numbered and verified by a Town representative. Town shall retain the

original certification copy, the Contractor(s) shall retain the second copy, and the third copy shall remain in the certified vehicle.

Any changes to the equipment size or capacity, i.e. adding or removing sideboards, tailgates etc. will require it to be recertified. This new certification shall be attached to the original certification and documented as to when and/or why recertification was required and occurred.

Any vehicle may at any time be re-measured for capacity. If determined the capacity is different due to mathematical error, this new capacity will be reflected on any previous loads and reconciled as such. Digital copies of truck certifications, forms, and photographs may be used in place of hard copies when applicable technologies are both available and if conform with and are compatible with an approved ADMS used by the debris monitoring Contractor(s).

10.5. Vehicle Information

The maximum load capacity of each hauling vehicle will be rounded to the nearest whole cubic yard (CY) (Decimal values of .1 through .4 will be rounded down and decimal values of .5 through .9 will be rounded up). The measured maximum load capacity (as adjusted) of any vehicle load bed shall be the same as shown on the certification form and placarded on each numbered vehicle or piece of equipment used to haul debris. Contractor(s) name and vehicle certification number shall be on the placard along with the certified CY. All vehicles or equipment used for hauling shall have and use a Town / Contractor-approved tailgate. A complete list of all certified vehicles with total adjusted CY information including details of tailgates, sideboards, and deductions shall be supplied, maintained, and updated by the Contractor(s) when any changes occur at all DMS sites.

10.6. Security of Debris during Hauling

Contractor(s) shall be responsible for the security of debris on/in each vehicle or piece of equipment utilized to haul debris. Prior to leaving the loading sites, Contractor(s) shall ensure that each load is secure and trimmed so that no debris extends horizontally beyond the bed of the equipment in any direction or vertically above FDOT maximum height requirements; tailgates must be closed. All loose debris shall be reasonably compacted and secured during transport in accordance with FDOT guidelines. As required, Contractor(s) will regularly survey the primary transportation routes used by Contractor(s) & its subs and recover fallen or blown debris from the roadway(s).

10.7. Traffic Control

Contractor(s) shall mitigate impact on local traffic conditions to the greatest extent possible while collecting or managing debris. Contractor(s) are responsible for establishing and maintaining appropriate traffic control in accordance with the most current edition of the US Department of Transportation Manual of Uniform Traffic Control Devices (MUTCD) (see http:mutcd.fhwa.dot.gov OR other appropriate address for manual). Contractor(s) shall provide sufficient signage, flagging, and barricading to ensure the safety of vehicular and pedestrian traffic at all debris removal, reduction and/or disposal sites.

10.8. Workdays/Hours

Contractor(s) may conduct debris removal operations 30 minutes prior to and 30 minutes after the published sunrise/sunset, seven (7) days per week unless prohibited by ordinance. Any mechanical, debris reduction operations or burning operations may be conducted twenty-four (24) hours per day, seven (7) days per week or in accordance with Local, State or Federal decree. Adjustments to workdays and/or work hours shall be as directed by Town following consultation and notification to Contractor(s).

10.9. Hazardous and Industrial Wastes

Contractor(s) shall provide within 90 days of execution of this contract, their Hazardous and Industrial Materials Cleanup and Disposal Plan. This plan shall outline procedures on how the Contractor(s) shall identify, isolate, and reasonably protect all hazardous or industrial materials encountered during debris removal operations for collection and disposal.

Contractor(s) shall build, operate, and maintain a Hazardous Waste and Industrial Material Storage area until proper disposal of such waste is feasible. Contractor(s) may use the subcontracting services of a firm specializing in the management and disposal of such materials and waste as outlined in section 7.3.

10.10. Stumps

All eligible stumps authorized by the Town shall be extracted, loaded, transported, stored, reduced and disposed in accordance with the standards and pricing templates of this Contract and in accordance with FEMA guidance documents DAP9523.11 or as amended.

Small stumps placed within loose debris piles shall be collected as normal debris. Loose stumps, placed at the right-of-way by others shall be identified and converted to cubic yards prior to collection. The size of all eligible loose stumps shall be determined by measuring up 1 to 2 feet from the root system then measuring the circumference and dividing by (3.14) to determine the diameter; or in accordance with the most currently available FEMA guidelines. All stumps will be documented, invoiced and paid in accordance with FEMA guidance and details & conditions of this Contract.
The Contractor(s) shall backfill the hole left from stump extractions. A stump will be determined eligible for extraction based on the most current FEMA guidance but at a minimum must meet the following:

- The stump poses a threat to health and safety, and
- Has 50% or more of the root-ball is exposed, and
- It is greater than 24” in diameter as measured 24” above the ground.

FEMA policy for documentation of stumps shall be followed but at a minimum the following documentation must be obtained for each stump removed:

- Photographs and GPS coordinates that establish the location is on public property.
- Specific narrative describing the threat to health and safety
- Diameter of the stump
- Quantity of material needed to fill the resultant hole

Prior to stump extraction, all documentation described above shall be provided to the Town; once determined eligible, written authorization shall be provided to the Contractor(s) to remove the eligible stump. Copies of this authorization shall be submitted with the invoice in order to justify payment.
The Contractor(s) must complete a FEMA Hazardous Stump Worksheet where required by FEMA policy. In the event that there are changes to FEMA or other regulatory requirements for stump documentation, the most current guidance or policy shall apply.

Reduction costs of stumps shall be included in the debris processing costs established in the pricing template.

10.11. Work Safety

Contractor(s) shall provide and enforce a safe work environment as prescribed in the

Occupational Safety and Health Act of 1970, as amended. Contractor(s) shall provide such safety equipment, training, and supervision as may be required by Town and/or other governmental regulations. Contractor(s) shall ensure that its subcontracts contain a similar safety provision.

10.12. Inspection and Testing

All debris shall be subject to inspection by Town and other public authorities to ensure compliance with Contract, applicable federal, state, and local laws, and in accordance with generally accepted standards of emergency management professionals. Town or its representatives will, at all times, have access to all work sites and disposal areas. In addition, authorized representatives and agents of the government shall be permitted to inspect all work, materials, invoices and other relevant records and documentation.

10.13. Retention of Collection Equipment

Contractor(s) shall supply and maintain a sufficient quantity of collection equipment to complete the debris management project in accordance with the collection rates established herein or as approved by Town to complete the final stages of the project within the established timelines. Collection equipment shall remain in force until the debris collection is complete or when determined by Town and Contractor(s) to be adequate to complete the recovery effort. Equipment leaving the Town prior to completion of the recovery effort shall be replaced with equal or better equipment. Unless the Town determines that downsizing of the operation is warranted.

10.14. Chainsaw Crews

Crews shall work only as directed by task order by the Town; the number of crewmembers and scope of work to be performed shall be outlined in the task order. Following the initial cut and toss phase of the project, chainsaw crews must be monitored by the Town's debris monitoring firm. Unauthorized work shall not be paid for. Detailed invoices consisting of at a minimum the number of crewmen, hours worked, location, and description of work performed shall be submitted with the monthly invoice.

10.15. Hazardous Trees

Hazardous Trees are to be removed if the condition was caused by the disaster, it is an immediate threat to health and safety, and has a diameter breast height of six inches (6") or greater, and one of the following criteria is met:

- More than 50% of the crown is damaged or destroyed; or
- The trunk is split, or it has broken branches that expose the heartwood of the tree; or
- It is leaning at an angle greater than 30 degrees

Trees determined to be hazardous and that have less than 50% of the root-ball exposed should be cut flush at ground level.

FEMA policy for documentation shall be followed but at a minimum the following minimum documentation must be obtained for each hazardous tree prior to its removal:

- Photographs and GPS coordinates that establish the location is on public property
- Specific narrative describing the threat to health and safety

After hazardous trees are properly documented and determined eligible by the Town or designated Debris Monitor, written authorization shall be given to the Contractor(s) to remove the tree. Copies of these authorizations are required to be submitted with the invoice in order to be eligible for payment.

10.16. Hanging Limbs

Limbs, authorized as eligible for reimbursement by the Town must be:

- Located on improved public property
- Greater than two inches (2") in diameter at the point of breakage
- Still hanging in a tree and threatening a public use area

FEMA policy for documentation shall be followed but at a minimum the following documentation must be obtained for each hanging limb that is removed:

- Photographs and GPS coordinates that establish the location is on public property
- Specific narrative describing the threat to health and safety

After hazardous trees are properly documented and determined eligible by the Town or Town designated debris monitor, written authorization shall be given to the Contractor(s) to remove the tree. Copies of these authorizations are required to be submitted with the invoice in order to be eligible for payment.

10.17. Hand Loaded Collection Equipment

Hand load trucks, trailers or equipment are discouraged, and shall be used only in areas where typical collection equipment cannot access and only with prior written authorization of the Town. These "hand loaders" must remove all eligible debris as outlined in section 8.4. All Contractor(s) equipment must be capable of self-unloading, equipment that must be unloaded by hand or requires assistance from operator at DMS site will not be permitted to dump at DMS sites.

10.18. Dead Animals

Dead animals found (or placed) in the right-of-way or inadvertently delivered to a debris management site shall be the responsibility of the Contractor(s) to remove and lawfully dispose of under this contract.

11. REPORTS, CERTIFICATIONS, AND DOCUMENTATION

11.1. Accountable Debris Load Forms

Town and Contractor(s) shall, after reconciliation, accept the serialized copies of the debris reporting tickets or approved ticket data base as the certified**,** original source document to account for the measurement and accumulation of the volume of debris delivered and processed at the reduction and/or disposal sites as verified by Town representative. The serialized ticketing system (paper or approved electronic) will also be used in the event of additional debris handling for volume reduction and/or the possible requirement for a debris transfer station. These tickets/data base shall be used as the basis of any electronic generated billing and/or reports.

- If requested, the Contractor(s) shall provide, minimum 4-part carbon copy, debris load tickets for use through the recovery operations.
- All debris collection and disposal information required by FEMA of other regulations must be documented on each load ticket
- The Contractor(s) shall submit all original load tickets to the Town

At the option and request of the Town, the Contractor(s) shall reconcile their load ticket copies with Town copies no less than one time per week. Discrepancies shall be noted and resolved prior to the next reconciliation period.

An approved and auditable electronic debris ticket database, established through the use of an approved ADMS provided by the Town's debris monitoring Contractor(s), may be used in place of serialized copies of the debris reporting tickets. In this event, load tickets will be replaced by ADMS generated receipts or reconciled electronic database where applicable.

11.2. Reports

Contractor(s) shall submit periodic, written reports to Town as requested or required, detailing the progress of debris removal and disposal. These reports shall include, but are not limited to:

11.2.1. Daily Reports

Daily reports shall detail the locations where passes for debris removal were conducted, the quantity of debris (by type) removed and disposed of, the total number of personnel crews engaged in debris management operations, and the number of grinders, chippers and mulching machines in operation. Contractor(s) shall also report and provide regular repair progress updates of any damages to private property caused by the debris operation or damage claims made by citizens and such other information as shall be required to completely describe the daily conduct of Contractor's operations.

11.2.2. Weekly Summaries

A summary of all information contained in the daily reports as set out in Section 11.2.1 of this Contract or in a format required by Town.

11.2.3. Report Delivery

The scheduling, point of delivery and receiving personnel for the debris operations report will be directed by Town in consultation with Contractor(s).

11.2.4. Final Project Closeout

Upon final inspection and/or closeout of the project by Town, Contractor(s) shall prepare and submit a detailed description of all debris management activities to include, but not be limited to the total volume, by type of debris hauled, reduced and/or disposed of, plus the total cost of the project invoiced to Town. Contractor(s) shall provide any other additional information as may be necessary to adequately document the conduct of the debris management operations for Town and/or other government entity. Report shall include a section detailing any private property damages or claims, the satisfaction of these claims, as well as the status of any outstanding claims that require further action by the Contractor(s).

All load tickets, scale tickets, disposal documentation, and supporting backup documentation shall be submitted to the Town no later than 30 days following the completion of each operational period or pass, and all final backup documentation shall be reconciled and submitted in full no later than 60 days following the issuance of the final Notice of Completion by the Town. Failure to submit complete and reconciled documentation within these timeframes may result in delayed or denied payment for the associated work. The Town reserves the right to withhold final payment until all required documentation has been received, reviewed, and accepted.

11.2.5. Additional Supporting Documentation

Contractor(s) shall submit sufficient reports and/or documentation for debris loading, hauling, disposal, and load capacity measurements, and any other services provided by Contractor(s) as may be required by Town and/or other governmental entity to support

requests for debris project reimbursement from external funding sources.

11.2.6. Report Maintenance

Contractor(s) will be subject to audit by federal, state and local agencies pursuant to this Contract. Contractor(s) shall maintain all reports, records, debris reporting tickets and contract correspondence for a period of not less than three (3) years.

11.2.7. Contract File Maintenance

Contractor(s) shall maintain this Contract and the invoices that are generated for Contracted services for a period of five (5) years or the period of standard record retention of the Town, whichever is longer. Public records law requires that all records that are not exempt, must be made available upon request by the public. TOWN may unilaterally cancel this contract for refusal to comply with this provision.

12. PRICING AND PAYMENTS

12.1. Schedule of Values

12.1.1. Category A - Core Services includes pricing for debris removal; debris processing; debris disposal; stump extractions; hazardous limb removal; and storm damage tree removal.

The following notes are defined and assigned in each line item as individually listed in Category A of the Schedule of Values:

- Note 1 - Prices shall include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda, Florida. Tipping fees at final disposal site(s) shall be the responsibility of the Contractor(s) and passed through to the Town without mark-up, unless approved otherwise. See section 9.8.9. within scope of services for disposal at County Owned and Operated disposal sites.

- Note 2 - For out of County disposal sites (excluding the Lee/Hendry Landfill), additional mileage will begin and be measured from the Lee County boundary closest to the disposal site. The approved per load additional mileage cost will be applied to each ticketed out of County load and be applicable to the miles beyond the Lee County boundary. Mileage is based on a one-way haul distance.

- Note 3 – For multi-year contract, the prices shown in Category A would be adjusted on the anniversary date of Contract according to a percentage equal to the precent change in the Consumer Price Index as published in the U.S. Department of Labor, Bureau of Labor Statistics. (CWUR0300SAO) is the established index.

- Note 4 – Includes all site services, including but not limited to, providing monitoring towers, sanitary portable restrooms, and site safety & security.

- Note 5 – Includes comprehensive management of all debris site activities, including grubbing and establishing ingress/egress as needed, maintaining driving and working surfaces, managing storm water & regulatory compliance, and close-out site remediation. See section 9.8 in the scope of services for more detail.

- Note 6 – All stumps placed on the right of way by citizens will be converted to CY per

the Stump Conversion Chart provided by FEMA Guidance DAP9523.11 and charged as regular debris for items A2 through A7.

- Note 7 – Items must be documented as per the scope of services and in accordance with appropriate FEMA Guidance, including DAP9523.11 or as amended.

12.1.2. Category B - Specialized Removal and Restoration pricing for specialized removal (activities require specific task authorization and include all labor and management of tasks); and Restoration (activities require specific task authorization and include all labor and management of tasks).

The following notes are defined and assigned in each line item as individually listed in Category B of the Schedule of Values:

- Note 1 - Prices shall include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda, Florida. Tipping fees at final disposal site(s) shall be the responsibility of the Contractor(s) and passed through to the Town without mark-up, unless approved otherwise. See section 9.8.9. within scope of services for disposal at County Owned and Operated disposal sites.

- Note 2 - For out of County disposal sites (excluding the Lee/Hendry Landfill), additional mileage will begin and be measured from the Lee County boundary closest to the disposal site. The approved per load additional mileage cost will be applied to each ticketed out of County load and be applicable to the miles beyond the Lee County boundary. Mileage is based on a one-way haul distance.

- Note 3 – Includes all site services, including but no limited to, providing monitoring towers, sanitary portable restrooms, and site safety & security

- Note 4 – Items must be documented as per the scope of services and in accordance with appropriate FEMA Guidance, including DAP9523.11 or as amended.

12.1.3. Category C - Specialized Labor and Work Crews includes pricing for specialized labor; work crews (typical crew makeup for "first 70 hours of operation); and additional laborers.

12.1.4. Category D - Equipment includes pricing for equipment used while performing disaster recovery services.

12.2. Billing Cycle

Contractor(s) shall invoice the Town on a 30-day basis reflecting the close of business on the last working day of the billing period. Serialized debris reporting tickets and disposal site verification of the actual cubic yardage for each load of debris or itemized stumps shall support all invoices. Electronic copies of supporting documentation may be used if approved by the Town. Invoices need to contain enough detailed descriptions within the invoice to understand the scope of work being billed in the invoice. (i.e. not just services for dates xx/xx/xxxx through xx/xx/xxxx)

12.3. Ineligible Work

Contractor(s) will not be paid for the removal, transportation, storage, reduction and/or disposal of any materials or stumps that were determined by Town and/or other government entity as ineligible debris and for which the Contractor(s) was not formally authorized to perform by the

Town.

12.4. Eligibility Inspections

Contractor(s) and Town or its representatives shall inspect each load to verify that the contents are in accordance with the accepted definition of eligible debris as determined within this Contract.

12.5. Eligibility Determinations

If any load is determined to contain material that does not meet the definition of eligible debris, e.g., debris collected from private property or not at the request of the Town or its representatives, the load shall be directed to an alternate disposal or processing facility. No payment will be approved, and Contractor(s) shall not invoice the Town for ineligible loads. Town, through its authorized representative, will be the sole judge as to whether the material conforms to the definition of eligible debris, and its decision will be final.

12.6. Unit Price/Service Negotiations

Unknown and/or unforeseen events or conditions may require an adjustment to the stated unit prices within this Contract. Any amendments, extensions, or changes to the scope of services or unit prices are subject to full negotiations between Town and Contractor(s) and subject to the review of the government.

In addition, all costs related to labor, materials, and equipment shall be fair, reasonable, and consistent with costs set forth in the schedule of values and with the most current version of the Federal Emergency Management Agency's Schedule of Equipment Rates, to be applied at all times for implementation of this Contract.

12.7. Specialized Services

Contractor(s) may invoice Town for costs incurred to mobilize and demobilize specialized equipment required to perform services in addition to those specified under within this Contract. Additional specialized services will only be performed when directed by the Town. The rate for specialized services shall be in accordance with the rates provided in the Schedule of Values. Items not included shall be negotiated and shall be fair and reasonable as determined by the Town.

EXHIBIT "B"

COMPENSATION AND PRICING

☒ following this page (pages 1 through 6)

☐ this exhibit is not applicable

EXHIBIT B - COMPENSATION AND PRICING

26-11-ES - DISASTER DEBRIS REMOVAL

SCHEDULE OF VALUES

CATEGORY A: CORE SERVICES

SECTION 1: DEBRIS REMOVAL, PROCESSING AND DISPOSAL

Item	Description	Unit of Measure	Unit Price
A1	Debris Removal from Public Property (Right-of-Way) and Hauling to Debris Management Sites (DMS)	CY	$ 7.85
A2	Debris Removal from Debris managemetn Sites (DMS) and Hauling to Final Disposal Site (Note 1 & 2)	CY	$ 5.00
A3	Debris Removal from Public Property (Right-of-Way) and Hauling directly to Final Disposal Site (Note 1 & 2)	CY	$ 8.25
A4	Cost per mile for alternate disposal sites outside of Lee County. (Note 1& 2)	Cost /Mile	$ 0.25
A5	Management of Debris Management Sites (DMS) (Note 4&5)	CY	$ 2.00
A6	Processing (Grinding/Chipping) of Debris at DMS or Final Disposal Site	CY	$ 1.95
A7	Processing (Burning) of Debris at DMS or Final Disposal Site	CY	$ 1.00
A8	Pick Up and Haul of White Goods to Disposal Site within County (Note 1)	UNIT	$ 55.00
A9	Pick Up and Disposal of Hazardous Material	LB	$ 10.00
A10	Freon Management and Recycling (Note: 7)	UNIT	$ 45.00
A11	Non Domestic Dead Animal Collection and Transportation to final disposal.	EACH	$ 100.00

SECTION 2: STUMP EXTRACTIONS

Item	Description	Unit of Measure	Unit Price
A12	< 24 inch diameter (Note:7)	Per Stump	$ 275.00
A13	> 24 inch diameter to 47.99 inch diameter (Note:7)	Per Stump	$ 375.00
A14	48 inch diameter and greater (Note:7)	Per Stump	$ 475.00
A15	On site stump grinding including filling hole with wood chips (Note:7)	Per Inch	$ 5.00

SECTION 3: HAZARDOUS LIMB REMOVAL

Item	Description	Unit of Measure	Unit Price
A16	>2 inches at the point of breakage, or whatever the current minimum is at the time of the storm event (Note:7)	Per Tree	$ 110.00

SECTION 4: STORM DAMAGE TREE REMOVAL

Item	Description	Unit of Measure	Unit Price
A17	Trees that require the "Climbing" and "Cut & Drop" method (e.g., trees over structures, homes, buildings, utilities or public ROW)		
	6" to 12.99" diameter	Per Tree	$ 150.00
	13" to 23.99" diameter	Per Tree	$ 250.00
	> 24" diameter	Per Tree	$ 415.00
A18	Trees that can only be accessed by "Mechanized Equipment" (i.e., bucket trucks, skid steer loaders, log skidders, excavators, wheel loaders)		
	6" to 12.99" diameter	Per Tree	$ 175.00
	13" to 23.99" diameter	Per Tree	$ 275.00
	> 24" diameter	Per Tree	$ 455.00
A19	Uprooted Trees; including those that have fallen in open areas, with easy access, or that have fallen on damaged structures		
	6" to 12.99" diameter	Per Tree	$ 150.00
	13" to 23.99" diameter	Per Tree	$ 250.00
	> 24" diameter	Per Tree	$ 415.00
A20	Trees broken in two pars or snapped in half with debris not falen on any dwelling or structure		
	6" to 12.99" diameter	Per Tree	$ 150.00
	13" to 23.99" diameter	Per Tree	$ 250.00
	> 24" diameter	Per Tree	$ 415.00

NOTES - The following notes apply only to Category A within the Schedule of Values and only as identified in each individual line item

1	Prices include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda FL. Tipping fees at final disposal site(s) will be the responsibility of Contractor and passed through to the Town without mark-up, unless approved otherwise. See section 9.8.9 in the scope of services for disposal at County Owned and Operated disposal sites.
2	For out of county disposal sites (excluding the Lee/Hendry Landfill), additional mileage will begin and be measured from the Lee County boundary closest to the disposal site. The approved per load additional mileage cost will be applied to each ticketed out of county load and be applicable only to the miles beyond the Lee County boundary. Mileage is based on a one-way haul distance.
3	For a multi-year contract, the prices shown in Category A would be adjusted on the anniversary date of Contract according to a percentage equal to the percent change in the Consumer Price Index as published in the U. S. Department of Labor, Bureau of Labor Statistics. (CWUR0300SAO) is the established index.
4	Includes all site services, including but not limited to, providing monitoring towers, sanitary portable restrooms, and site safety & security.
5	Includes comprehensive management of all debris and debris site activities, including grubbing & establishing ingress/egress as needed, maintaining driving and working surfaces, managing storm water & regulatory compliance, and close-out site remediation. See section 9.8 in the scope of services for more detail.
6	All stumps placed on the right of way by citizens will be converted to CY per the Stump Conversion Chart provided in FEMA Guidance DAP9523.11 and charged as regular debris for items A2 through A7.
7	Items must be documented as per the scope of services and in accordance with appropriate FEMA Guidance, including DAP9523.11 or as amended.

EXHIBIT B - COMPENSATION AND PRICING

26-11-ES - DISASTER DEBRIS REMOVAL

SCHEDULE OF VALUES

CATEGORY B: SPECIALTY REMOVAL AND RESTORATION

SECTION 1: SPECIALTY REMOVAL (Activities require specific task authorization and include all labor and management of tasks)

Item	Description	Unit of Measure	Unit Price
B1	Sand/Soil Collection & Screening. Includes pick-up, screen, and return of screened sand to designated staging areas.	CY	$ 31.00
B2	Pick-up & haul debris laden sand/mud/dirt/rock from sand screening operations to final disposal (Notes 1 & 2)	CY	$ 26.00
B3	Removal of Eligible vehicles - haul to designated staging or final disposal. (Notes 1 & 2)	Unit	$ 150.00
B4	Removal of eligible Vessel from (Land)	LF	$ 23.00
B5	Demolition of Private Structure	CY	$ 16.95
B6	Dead Fish and/or Algae, including removal and sand raking from beaches.	LB	$ 5.25

SECTION 2: RESTORATION (Activities require specific task authorization and include all labor and management of tasks)

Item	Description	Unit of Measure	Unit Price
B7	Beach/Lake Restoration - Berm/Beach Cosntruction	CY	$ 29.00
B8	Canal Shoreline Restoration	LF	$ 19.75

NOTES - The following notes apply only to Category B within the Schedule of Values and only as identified in each individual line item

1	Prices include disposal sites located in Lee County and at the Lee/Hendry Landfill in Felda, FL. Tipping fees at final disposal site(s) will be the responsibility of Contractor and passed through to the Town without mark-up, unless approved otherwise. See section 9.8.9 in the scope of services for disposal at County Owned and Operated disposal sites.
2	For out of county disposal sites (excluding the Lee/Hendry Landfill), additional mileage will begin and be measured from the Lee County boundary closest to the disposal site. The approved per load additional mileage cost will be applied to each ticketed out of county load and be applicable only to the miles beyond the Lee County boundary. Mileage is based on a one-way haul distance.
3	Includes all site services, including but not limited to, providing monitoring towers, sanitary portable restrooms, and site safety & security.
4	Includes comprehensive management of all debris and debris site activities, including grubbing & establishing ingress/egress as needed, maintaining driving and working surfaces, managing storm water & regulatory compliance, and close-out site remediation. See section 9.8 in the scope of services for more detail.
5	Items must be documented as per the scope of services and in accordance with appropriate FEMA Guidance, including DAP9523.11 or as amended.

EXHIBIT B - COMPENSATION AND PRICING

26-11-ES - DISASTER DEBRIS REMOVAL

SCHEDULE OF VALUES

CATEGORY C: SPECIALIZED LABOR AND WORK CREWS

SECTION 1: SPECIALIZED LABOR

Item	Description	Unit of Measure	Unit Price
C1	Field Supervisor with truck and cell phone	Hourly	$ 70.00
C2	Administrative Assistant	Hourly	$ 55.00
C3	Heavy Equipment Operator	Hourly	$ 65.00
C4	Tool Operator (Chainsaw)	Hourly	$ 50.00
C5	Laborer w/ small tools	Hourly	$ 50.00
C6	Hazardous Material Worker w/ gear	Hourly	$ 135.00
C7	Mechanic w/ truck and tools	Hourly	$ 65.00
C8	Tree Climber w/ chainsaw and gear	Hourly	$ 90.00
C9	22' - 31' Work Boat with Captain (Inclusive of Fuel, Mooring and Mobilization)	Per Boat / Per day	$ 3,200.00
C10	Services of 2 - 4 Laborers per Vessel	Per Boat / Per day	$ 2,400.00

SECTION 2: WORK CREWS (typical crew makeup for "First 70 Hours Operation")

Item	Description	Unit of Measure	Unit Price
C11	WheelLoader w/ operator, 2.5 cy, Foreman with support vehicle and small equipment, Laborer w/ chainsaw & two (2) laborers with small tools	Hourly (entire crew)	$ 435.00

SECTION 3: ADDITIONAL LABORERS

Item	Description	Unit of Measure	Unit Price
C12	Project Manager	Hourly	$ 70.00
C13	Safety Superintendent	Hourly	$ 85.00
C14	Traffic Control Personnel	Hourly	$ 50.00
C15	Project Engineer	Hourly	$ 145.00
C16	Security Person (Unarmed)	Hourly	$ 95.00
C17	Security Person (Armed)	Hourly	$ 135.00
C18	Health / Safety or QC manager with Truck	Hourly	$ 135.00
C19		Hourly	$ -
C20		Hourly	$ -
C21		Hourly	$ -

EXHIBIT B - COMPENSATION AND PRICING

26-11-ES - DISASTER DEBRIS REMOVAL

SCHEDULE OF VALUES

CATEGORY D: EQUIPMENT

SECTION 1: EQUIPMENT

Item	Description	Specification	Capacity	Horse Power	Notes	Rate Per Hour
D1	Aerial Lift, Self Propelled	Max Platform Ht	37 ft	to 15	Articulated, telescoping, scissor	$ 50.00
D2	Aerial Lift, Self Propelled	Max Platform Ht	60 ft	to 30	Articulated, telescoping, scissor	$ 60.00
D3	Aerial Lift, Self Propelled	Max Platform Ht	70 ft	To 50	Articulated, telescoping, scissor	$ 70.00
D4	Aerial Lift, Self Propelled	Max Platform Ht	125 ft	To 85	Articulated, telescoping, scissor	$ 95.00
D5	Aerial Lift, Self Propelled	Max Platform Ht	150 ft	to 130	Articulated, telescoping, scissor	$ 145.00
D6	Aerial Lift, Truck Mounted	Max Platform Ht	25 Ft		Articulated, telescoping, scissor	$ 60.00
D7	Aerial Lift, Truck Mounted	Max Platform Ht	50 Ft		Articulated, telescoping, scissor	$ 80.00
D8	Aerial Lift, Truck Mounted	Max Platform Ht	75 Ft		Articulated, telescoping, scissor	$ 110.00
D9	Aerial Lift, Truck Mounted	Max Platform Ht	100 Ft		Articulated, telescoping, scissor	$ 140.00
D10	Breaker, Hand-Held Pavement	Weight	25 - 90 lbs			$ 35.00
D11	Breaker, Pavement			to 70		$ 45.00
D12	Breaker Pavement			to 105		$ 55.00
D13	Breaker, Pavement			to 137		$ 65.00
D14	Breaker, Pavement					$ 70.00
D15	Bucket, Clamshell	Capacity	1.0 CY			$ 30.00
D16	Bucket, Clamshell	Capacity	2.5 CY			$ 40.00
D17	Bucket, Clamshell	Capacity	5.0 CY			$ 50.00
D18	Bucket, Clamshell	Capacity	7.5 CY			$ 60.00
D19	Chain Saw	Bar Length	16 Inch			$ 10.00
D20	Chain Saw	Bar Length	25 inch			$ 10.00
D21	Chain Saw Pole	Bar Size	18 inch			$ 10.00
D22	Chipper, Brush	Chipping Capacity	6 inch	to 35	Trailer mounted	$ 60.00
D23	Chipper, Brush	Chipping Capacity	12 inch	to 60	Trailer mounted	$ 85.00
D24	Chipper, Brush	Chipping Capacity	16 Inch	to 100	Trailer mounted	$ 140.00
D25	Chipper, Brush	Chipping Capacity	18 inch	to 125	Trailer mounted	$ 155.00
D26	Chipper, Brush	Chipping Capacity	18 inch	to 200	Trailer mounted	$ 315.00
D27	Chipper, Brush	Chipping Capacity	19 inch	to 300	Trailer mounted	$ 360.00
D28	Chipper, Brush	Chipping Capacity	19 inch	to 450	Trailer mounted	$ 415.00
D29	Chipper, Brush	Chipping Capacity		to 650	Trailer mounted	$ 460.00
D30	Crane	Max Lift Capacity	8 MT	to 80		$ 125.00
D31	Crane	Max Lift Capacity	15 MT	to 150		$ 150.00
D32	Crane	Max Lift Capacity	27 MT	to 200		$ 175.00
D33	Crane	Max Lift Capacity	45 MT	to 300		$ 225.00
D34	Crane	Max Lift Capacity	70 MT	to 350		$ 325.00
D35	Crane	Max Lift Capacity	110 MY	to 450		$ 425.00
D36	Crane, Truck mounted	Max Lift Capacity	17,600 lbs			$ 90.00
D37	Crane, Truck mounted	Max Lift Capacity	33,000 lbs			$ 100.00
D38	Crane, Truck mounted	Max Lift Capacity	60,000 lbs			$ 130.00
D39	Crane, Truck mounted	Max Lift Capacity	120,000 lbs			$ 220.00
D40	Fork Lift	Capacity	6000 lbs	to 60		$ 50.00
D41	Fork Lift	Capacity	12,000 lbs	to 90		$ 85.00
D42	Fork Lift	Capacity	18,000 lbs	to 140		$ 130.00
D43	Fork Lift	Capacity	50,000 lbs	to 215		$ 160.00
D44	Load, Skid-Steer	Operating Capacity	1000 lbs	to 35		$ 100.00
D45	Load, Skid-Steer	Operating Capacity	2000 lbs	to 65		$ 120.00
D46	Load, Skid-Steer	Operating Capacity	3000 lbs	to 85		$ 145.00
D47	Load, Skid-Steer	Operating Capacity	4000 lbs	to 94		$ 155.00
D48	Loader, Wheel	Bucket Capacity	0.5 CY	To 38		$ 100.00
D49	Loader, Wheel	Bucket Capacity	1 CY	To 60		$ 120.00
D50	Loader, Wheel	Bucket Capacity	2 CY	To 105		$ 130.00
D51	Loader, Wheel	Bucket Capacity	3 CY	To 152		$ 140.00
D52	Loader, Wheel	Bucket Capacity	4 CY	To 200		$ 150.00
D53	Loader, Wheel	Bucket Capacity	5 CY	To 250		$ 160.00

D54	Loader, Wheel	Bucket Capacity	6 CY	To 305		$ 170.00
D55	Loader, Wheel	Bucket Capacity	7 CY	To 360		$ 180.00
D56	Loader, Wheel	Bucket Capacity	8 CY	To 415		$ 190.00
D57	Loader, Wheel	Bucket Capacity	9 CY	To 470		$ 200.00
D58	Loader, Wheel	Bucket Capacity	10 CY	To 530		$ 225.00
D59	Loader-Backhoe, Wheel	Bucket Capacity	.05 CY	To 40	Loader and Backhoe bucket included	$ 120.00
D60	Loader-Backhoe, Wheel	Bucket Capacity	1 CY	To 70	Loader and Backhoe bucket included	$ 140.00
D61	Loader-Backhoe, Wheel	Bucket Capacity	1.5 CY	To 95	Loader and Backhoe bucket included	$ 160.00
D62	Loader-Backhoe, Wheel	Bucket Capacity	1.75 CY	To 115	Loader and Backhoe bucket included	$ 175.00
D63	Saw, Concrete	Blade Diameter	14 in	To 14		$ 40.00
D64	Saw, Concrete	Blade Diameter	26 in	To 35		$ 50.00
D65	Saw, Concrete	Blade Diameter	48 in	To 65		$ 65.00
D66	Sweeper, Pavement			to 110		$ 80.00
D67	Sweeper, Pavement			To 150		$ 95.00
D68	Sweeper, Pavement			To 200		$ 125.00
D69	Trailer, Dump	Capacity	20 CY		Does not include prime mover	$ 75.00
D70	Trailer, Dump	Capacity	30 CY			$ 80.00
D71	Trailer, Dump	Capacity	40 CY		Does not include prime mover	$ 120.00
D72	Trailer, Equipment	Capacity	30 tons			$ 45.00
D73	Trailer, Equipment	Capacity	40 tons			$ 55.00
D74	Trailer, Equipment	Capacity	60 tons			$ 65.00
D75	Trailer, Equipment	Capacity	120 tons			$ 130.00
D76	Truck, Dump	Truck Capacity	8 CY	To 210		$ 140.00
D77	Truck, Dump	Truck Capacity	10 CY	To 235		$ 145.00
D78	Truck, Dump	Truck Capacity	12 CY	To 255		$ 150.00
D79	Truck, Dump	Truck Capacity	18 CY	To 330		$ 155.00
D80	Truck, Dump	Truck Capacity	28 CY	To 400		$ 165.00
D81	Truck, Dump	Truck Capacity	40 CY	To 460		$ 170.00
D82	Truck, Dump	Truck Capacity	50 CY	To 620		$ 175.00
D83	Truck, Flatbed	Max Gross Vehicle Weight	15,000 lbs	To 150		$ 50.00
D84	Truck, Flatbed	Max Gross Vehicle Weight	25,000 lbs	To 180		$ 90.00
D85	Truck, Flatbed	Max Gross Vehicle Weight	30,000 lbs	To 215		$ 100.00
D86	Truck, Flatbed	Max Gross Vehicle Weight	45,000 lbs	To 250		$ 115.00
D87	Truck, Flatbed	Max Gross Vehicle Weight	50,000 lbs	To 300		$ 125.00
D88	Truck, Flatbed	Max Gross Vehicle Weight		To 375		$ 130.00
D89	Truck, Flatbed	Max Gross Vehicle Weight		To 450		$ 135.00
D90	Truck, Knuckle Boom				Add flatbed truck to truck mounted crane	$ 290.00
D91	Truck, Pickup			To 130		$ 15.00
D92	Truck, Pickup			To 180		$ 20.00
D93	Truck, Pickup			To 230		$ 25.00
D94	Truck, Pickup			To 280		$ 25.00
D95	Truck, Tractor			To 210		$ 115.00
D96	Truck, Tractor			To 265		$ 125.00
D97	Truck, Tractor			To 310		$ 135.00
D98	Truck, Tractor			TO 350		$ 145.00
D99	Tub Grinder			To 400		$ 300.00
D100	Tub Grinder			To 500		$ 325.00
D101	Tub Grinder			To 600		$ 350.00
D102	Tub Grinder			To 700		$ 375.00
D103	Tub Grinder			To 800		$ 400.00
D104	Tub Grinder			To 900		$ 425.00
D105	Tub Grinder			To 1,000		$ 490.00
D106	Light Tower	with 4 500 watt light	w/ 10kw power unit	13.5	Trailer mounted	$ 80.00
D107	Light Tower					$ 95.00
D108	All Terrain Vehicle	6- wheel				$ 30.00
D109	All Terrain Vehicle	4-Wheel - 24"	250cc	15-17		$ 40.00
D110	All Terrain Vehicle	4-Wheel - 24"	300cc	18-20		$ 50.00
D111	All Terrain Vehicle	4-Wheel - 24"	400cc	26-28		$ 55.00
D112	Graders	Moldboard Size	10 FT	to 110	Includes Rigid and Articulate equipment	$ 65.00
D113	Graders	Moldboard Size	12 FT	To 150	Includes Rigid and Articulate equipment	$ 80.00
D114	Graders	Moldboard Size	14 Ft	To 225	Includes Rigid and Articulate equipment	$ 140.00
D115	Powerscreen	1400				$ 140.00
D116	Powerscreen	1700				$ 150.00
D117	Powerscreen	2100				$ 160.00
D118	Stacking Conveyor	30 x 60 Portable Hydraulic			Complete Road package	$ 95.00
D119	Water Truck	Tank Capacity	2500 Gal	to 175	Include pump and rear spray	$ 115.00

D120	Water Truck	Tank Capacity	4000 Gal	to 250	Include pump and rear spray	$ 130.00
D121	Loader - Tractor Knuckle boom	Model Barko 595 ML		To 240		$ 290.00
D122	Clamshell & Dragline, Crawler		149,999 lbs	to 235	Bucket not included in rate	$ 300.00
D123	Clamshell & Dragline, Crawler		250,000 lbs	to 520	Bucket not included in rate	$ 450.00
D124	Clamshell & Dragline, Truck			to 240	Bucket not included in rate	$ 270.00

EXHIBIT "C"

WORK SCHEDULE

☒ following this page (pages 1 through 3)

☐ this exhibit is not applicable

EXHIBIT "C" – WORK SCHEDULE

1. GENERAL

1.1. This Exhibit C establishes the performance schedule applicable to the primary and secondary Contractors awarded contracts pursuant to Solicitation No. 26-11-ES, Disaster Debris Removal and Disposal Services. This schedule governs all debris removal operations, mobilization timelines, reporting obligations, documentation requirements, and annual preparedness activities required under the Contract.

1.2. Because the nature and magnitude of a disaster event cannot be predetermined, this Work Schedule is structured around the issuance of a Notice to Proceed (NTP) rather than fixed calendar dates. All milestone timeframes are measured from the date and time the Town issues a written Notice to Proceed to the Contractor. The Contractor is required to maintain readiness throughout the term of the Contract to perform all services in accordance with the timelines set forth herein.

1.3. The schedule below reflects minimum performance requirements. The Town reserves the right to adjust, modify, or extend any milestone based on event scope, operational need, or at the Town's sole discretion, provided such changes are communicated in writing to the Contractor.

1.4. No guarantee is expressed or implied as to the quantity of services to be procured or performed under this Contract; no work is guaranteed. This Exhibit becomes operative only upon the Town's issuance of a written Notice to Proceed.

2. PERFORMANCE MILESTONES

The following table identifies the minimum performance milestones applicable to each activation event. Milestones are measured from issuance of the Notice to Proceed (NTP) unless otherwise indicated.

Timeframe	Milestone / Deliverable	Description and Requirements
NTP + 0 hrs	Notice to Proceed Issued by Town	Town activates primary or secondary Contractor. Contractor acknowledges receipt in writing.
NTP + 24 hrs	Full Mobilization – Begin Debris Removal Operations	Contractor mobilizes all required personnel, equipment, and resources to Fort Myers Beach and commences debris removal operations. Failure to mobilize within 24 hours may result in activation of the Secondary Contractor and/or assessment of liquidated damages ($10,000/calendar day).
NTP + 48 hrs	Full Operational Capacity	Contractor achieves full operational capability, including removal teams, DMS coordination, debris monitoring support, and administrative tracking systems.
NTP + 0–72 hrs	Emergency Push / Road Clearance Phase	Contractor performs emergency push operations on primary transportation routes as directed by the Town. Estimated duration of approximately 72 hours from initial mobilization.
NTP + 2 days	Initial Removal Rate Established	Contractor achieves minimum initial debris collection rate of 3,000 cubic yards (CY) per day.
NTP + Day 6 onward	Escalating Removal Rate – Ramp-Up Phase	Contractor increases daily collection rate by a minimum of 3,000 CY per day above the prior day's rate, continuing until the sustained minimum daily rate is reached.
NTP + Day 6 (sustained)	Sustained Minimum Daily Rate	Contractor maintains a consistent minimum daily collection rate of 50,000 CY, or as modified by the Town based on event scope and need.
NTP + 15 days	Debris Reduction Rate Requirement Active	Vegetative debris reduction production rate (grinding/chipping/incineration) must meet or exceed the daily collection rate as of Day 15.
NTP + 90 days	DMS Site Management Plan Submission	Contractor submits to the Town three (3) copies of the site-specific Debris Management Site (DMS) Operations and Environmental Protection Plan.
NTP + 90 days	Hazardous and Industrial Materials Plan Submission	Contractor submits to the Town the Hazardous and Industrial Materials Cleanup and Disposal Plan.
Per Billing Period	30-Day Invoice Cycle	Contractor invoices the Town on a 30-day basis reflecting services through the close of business on the last working day of each billing period, supported by serialized load tickets and disposal documentation.

End of Each Pass	Load Ticket & Documentation Submission	All load tickets, scale tickets, and supporting disposal documentation submitted to the Town within 30 days of completion of each operational period or pass.
Collection Complete	Final Cleanup of Collection Site(s)	Contractor cleans all collection sites within 30 calendar days of receiving the last load of disaster-related debris and notice from the Town. Failure to meet this deadline is subject to liquidated damages ($1,000/calendar day).
Collection Complete	Final Project Documentation Submission	All final backup documentation reconciled and submitted in full no later than 60 days following the Town's issuance of the final Notice of Completion.
Project Closeout	Final Project Closeout Report	Contractor prepares and submits a detailed closeout report including total debris volume by type, total invoiced cost, damage log status, and all private property damage claim resolutions.
Annual	Pre-Event Training Day	Contractor provides a minimum of one (1) day (up to 8 hours) of on-site pre-event training for Town emergency management and recovery personnel at no additional cost to the Town.
Annual – Pre-Season	Coordination Meeting with Debris Monitoring Consultant	Contractor meets with the Town and the Town's Debris Monitoring Consultant to finalize and test documentation, inspection, and tracking processes prior to each hurricane season. May be combined with required annual training day.

3. AUTHORIZED WORK HOURS

3.1. Contractor(s) may conduct debris removal operations beginning 30 minutes prior to and 30 minutes after the published sunrise/sunset, seven (7) days per week, unless otherwise prohibited by Town ordinance or as directed by the Town.

3.2. Any mechanical debris reduction operations or burning operations authorized by the Town may be conducted twenty-four (24) hours per day, seven (7) days per week, or in accordance with applicable Local, State, or Federal requirements.

3.3. Any adjustments to authorized work hours shall be directed by the Town in writing following consultation with and notification to the Contractor(s).

4. LIQUIDATED DAMAGES SCHEDULE

4.1. The parties agree that actual damages resulting from the Contractor's failure to meet the performance milestones set forth in this Exhibit would be difficult or impossible to ascertain. Accordingly, the following liquidated damages are established as a reasonable pre-estimate of harm and not as a penalty. The application of liquidated damages does not release the Contractor from the underlying obligation to perform, nor does it limit the Town's other rights and remedies under the Contract.

4.2. The Town shall have the right to retain from any payment due the Contractor(s) under the Contract an amount sufficient to satisfy any liquidated damages assessed under this Exhibit.

#	Triggering Event	Amount
i	Failure to mobilize within 24 hours of Notice to Proceed	**$10,000 per calendar day of delay**
ii	Disaster debris collected in the Town disposed of at a non-County-approved DMS or non-designated Final Disposal Site	**$1,000 per load**
iii	Failure to sufficiently clean collection site(s) within 30 calendar days of receiving the last load of disaster debris and notice from the Town	**$1,000 per calendar day**
iv	Failure to repair damage caused by Contractor or its Subcontractor(s)	**$100,000 per incident, per day**
v	Contractor or Subcontractor leaves assigned zone to collect debris from another zone ("cherry picking"), or collects debris from outside of their assigned zone	**$1,000 per occurrence**
vi	Equipment leaves the Town prior to completion of the recovery effort without replacement with equal or better equipment, unless the Town determines downsizing is warranted	**$1,000 per day, per piece of equipment**

vii	Failure to maintain minimum processing rate — unprocessed material exceeds three (3) days of peak volume (not applicable where non-compliance is due to insufficient debris delivered)	**$1,000 per calendar day**
viii	Processed material stored more than ten (10) days after processing (not applicable where non-compliance is due to insufficient debris delivered)	**$1,000 per calendar day**

5. ACKNOWLEDGMENT OF WORK SCHEDULE

5.1. The Contractor acknowledges and agrees that the milestones, timelines, and liquidated damages provisions set forth in this Exhibit C are incorporated into and made part of the Contract. The Contractor further acknowledges that the performance timelines herein represent minimum requirements, and that the Town may, in its sole discretion, impose additional requirements or adjust timelines based on event-specific conditions communicated via written Notice to Proceed or task authorization.

5.2. Any modifications to this Exhibit must be made in writing and executed by both parties in accordance with the Changes provision of the Contract.

EXHIBIT “D”

SUPPLEMENTAL TASK AUTHORIZATION FORM

☐ following this page (pages ____ through ____)

☒ this exhibit is not applicable

EXHIBIT "E"

FLORIDA STATUTORY REQUIREMENTS

☒ following this page (pages 1 through 5)

☐ this exhibit is not applicable

FLORIDA STATUTORY REQUIREMENTS

1. E-Verify Compliance. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Fla. Stat., Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Fla. Stat.

2. Public records.

a. CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

    1. Keep and maintain public records required by the TOWN to perform the service.
    2. Upon request from the TOWN's custodian of public records, provide the TOWN 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 or as otherwise provided by law.
    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 this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the TOWN.
    4. Upon completion of this Agreement, transfer, at no cost, to the TOWN all public records in possession of CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If CONTRACTOR transfers all public records to the TOWN upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology systems of the TOWN.

b. "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.
c. If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.
d. CONTRACTOR consents to the TOWN's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a

mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by TOWN.

e. CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the TOWN.

f. **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, THE CONTRACTOR MAY CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TOWN HALL
6231 ESTERO BLVD
FORT MYERS BEACH, FL 33931
239-765-0202
FMBPUBLICRECORDS@FMBGOV.COM

3. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the TOWN harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.0701(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

4. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. CONTRACTOR hereby certifies that CONTRACTOR is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. CONTRACTOR further hereby certifies that CONTRACTOR is not engaged in a boycott of

Israel or engaged in business operations in Cuba or Syria. CONTRACTOR understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject CONTRACTOR to civil penalties, attorney's fees, and/or costs. CONTRACTOR further understands that any contract with TOWN for goods or services of any amount may be terminated at the option of TOWN if CONTRACTOR (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of TOWN if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

5. Disclosure Requirements for "Foreign Countries of Concern". CONTRACTOR shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], 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."

6. Public Entities Crime or Convicted Vendor List. CONTRACTOR agrees and assumes a continuous duty to disclose to the TOWN if the CONTRACTOR or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

7. Data Management; Notice of Breach. CONTRACTOR shall cooperate with the TOWN and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the TOWN must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

8. Environmental and Social Government and Corporate Activism. The TOWN has not given preference or requested documentation from the CONTRACTOR based on CONTRACTOR's social, political or ideological interest. CONTRACTOR agrees to similarly not

request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

9. No Coercion for Labor or Services. CONTRACTOR swears under penalty of perjury that CONTRACTOR does not use coercion for labor or services as defined as follows:

"Coercion" means:

i. Using or threatening to use physical force against any person;

ii. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;

iii. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

iv. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

v. Causing or threatening to cause financial harm to any person;

vi. Enticing or luring any person by fraud or deceit; or

vii. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

10. Conflicts. By entering into this agreement, the Contractor represents that it currently is not providing professional services to any third party person or entity on any project or development for which project or development approval is currently pending or proposed or for which an application is being prepared for submittal to the TOWN of Fort Myers Beach for review or approval and further agrees that during the term of this agreement, the Contractor will not provide professional services to any third party person or entity as to any project or development for which development or project approval is pending or proposed or for which an application is being prepared for submittal to the TOWN of Fort Myers Beach for review or approval.

11. **Breach of Agreement for Goods or Services Related to Emergency Response for Natural Disaster Pursuant to Section 252.505, Florida Statutes.** Pursuant to Sec. 252.505, Fla. Stat., if Contractor breaches this agreement during an emergency recovery period (1-year period beginning upon Governor's initial declaration of a natural emergency) Contractor shall pay a $5,000 penalty and damages, which may be either actual and consequential damages or liquidated damages in addition to any other consequential damages or liquidated damages that may otherwise be due under the terms of the agreement.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., CONTRACTOR declares that CONTRACTOR has read the foregoing Paragraph 9 above and that the facts stated in it are true.

CONTRACTOR:

By: _____
Signature

Tipton F. Rowland
↑Type/print signature and title↑

STATE OF Texas
COUNTY OF Williamson

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 3rd day of June, 2026, by Tipton F. Rowland as CEO of TFR Enterprises, Inc, a Owner on behalf of TFR Enterprises, Inc. and he/she is personally known to me or has produced Personally known as identification.

Tiffany J. Jean
Signature of Notary Public - State of Florida

TIFFANY J. JEAN
My Notary ID # 123933814
Expires January 27, 2030

Printed, Typed/Stamped Name of Notary
My commission expires:

EXHIBIT "I"

FEDERAL CONTRACT PROVISIONS AND

ASSURANCES

☒ following this page

☐ this exhibit is not applicable

FEDERAL EMERGENCY MANAGEMENT AGENCY
PUBLIC ASSISTANCE

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In cases of disagreement with any other section of this contract, the Supplemental Conditions shall govern. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract.

Pursuant uniform requirements of federal awards (2 CFR Part 200.23) the definition of CONTRACTOR is an entity that receives a Contract / Purchase Order.

Compliance with Federal Law, Regulations and Executive Orders: The Sub-Recipient (Town) agrees to include in the subcontract that (i) the subcontractor is bound by the terms of the Federally-Funded Subaward and Grant Agreement, (ii) the subcontractor is bound by all applicable state and Federal laws and regulations, and (iii) the subcontractor shall hold the Town harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

Specifically, the Contractor shall be responsible for being knowledgeable and performing any and all services under this contract in accordance with the following governing regulations along with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

- 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 44 C.F.R. Part 206
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- FEMA Public Assistance Program and Policy Guide

Access to Records: 1) The contractor agrees to provide the Town, the Florida Department of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract. (4) In compliance with section 1225 of the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Buy Clean: The Town encourages the use of environmentally friendly construction practices in the performance of this Agreement. In particular, the Town encourages that the performance of this agreement includes considering the use of low-carbon materials which have substantially lower levels of embodied greenhouse-gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products as demonstrated by their environmental product declaration.

Changes: To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allowable, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.

DHS Seal, Logo, and Flags: The Town must obtain written permission from Department of Homeland Security prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials. The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Domestic Preference for Procurements: The Contractor should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.

For purposes of this section: "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Build America, Buy America Act (BABAA): FEMA Public Assistance Funding is not subject to Buy America preference pursuant the following guidance: Programs and Definitions: Build America, Buy America Act | FEMA.gov

License and Delivery of Works Subject to Copyright and Data Rights: The Contractor grants to the Town, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town data first produced in the performance of this contract and data

required by the contract but not first produced in the performance of this contract in formats acceptable by the Town.

No Obligation by Federal Government: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts: The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Prohibition on Covered Telecommunications Equipment or Services: (a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds forcovered Telecommunications Equipment or Services As used in this clause –

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing — (i). A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii). Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i). Covered telecommunications equipment or services that: a. Are not used as a substantial or essential component of any system; and b. Are not used as critical technology of any system. (ii). Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(3) Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph(e), in all subcontracts and other contractual instruments.

Providing Good, Safe Job to Workers: Pursuant to FEMA Information Bulletin No. 520, the contractor will comply with all applicable federal labor and employment laws. To maximize cost efficiency and quality of work, the contractor commits to strong labor standards and protections for the project workforce by creating an effective plan for ensuring high-quality jobs and complying with federal labor and employment laws. The contractor acknowledges applicable minimum wage, overtime, prevailing wage, and health and safety requirements, and will incorporate Good Jobs Principles wherever appropriate and to the greatest extent practicable.

Rights to Inventions Made Under a Contract or Agreement: Exempt from FEMA Public Assistance Funding

Socioeconomic Contracting: The Contractor is encouraged to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure small businesses, minority businesses, women's business enterprises, veteran owned businesses, and labor surplus area firms are considered when possible. Such consideration means: (1) These business types are included on solicitation lists; (2) These business types are solicited whenever they are deemed eligible as potential sources; (3) Dividing procurement transactions into separate procurements to permit maximum participation by these business types; (4) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types; (5) Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring a contractor under a Federal award to apply this section to subcontracts.

Suspension and Debarment: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (3) This certification is a material representation of fact relied upon by the Town. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contractors must sign and submit a debarment certification to the Town with each bid or offer. See Certifications and Assurances and the end of this document.

Procurement of Recovered Materials (§200.323) (Over $10,000) : In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired — a) Competitively within a timeframe providing for compliance with the contract performance schedule; b) Meeting contract performance requirements; or c) At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage: Comprehensive Procurement Guideline (CPG) Program | US EPA. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

The Contactor should, to the greatest extent practicable and consistent with the law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable.

Termination for Cause and Convenience (over $10,000) : See Standard Purchase Order and/or Contract Terms and Conditions

Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended) (over $100,000) : Contractors who apply or bid for an award of more than $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the Town who in turn will forward the certification(s) to the federal agency.

Contractors must sign and submit a lobbying certification to the Town with each bid or offer exceeding $100,000. See Certifications and Assurances and the end of this document.

Contract Work Hours and Safety Standards Act (CWHSSA) (40 U.S.C. 3701-3708) (over $100,000) : Where applicable, all contracts awarded by the solicitor in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section,

in the sum of $32 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1).

(3) Withholding for unpaid wages and liquidated damages—

(i) Withholding Process. The Town may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this paragraph (b) on this contract, any other federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

(ii) (ii) Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

(A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A contractor's assignee(s);

(E) A contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

(4) Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs (b)(1) through (5) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (5). In the event of any violations of these clauses, the prime contractor, and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

(5) Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

(ii) Filing any complaint, initiating, or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

(iv) Informing any other person about their rights under CWHSSA or this part."

Further Compliance with the Contract Work Hours and Safety Standards Act.

(1) The contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of three years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made; and actual wages paid.

(2) Records to be maintained under this provision must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job."

Clean Air Act (over $150,000) : 1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act (over $150,000) : 1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Administrative, Contractual, or Legal Remedies (over $250,000) : Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

Construction Activities
This provision is applicable to all federally assisted construction contracts, as that term is defined at 41 C.F.R. § 60-1.3. To the extent this Agreement meets this definition, Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

1) Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5) The Contractor will comply with the rules, regulations, and relevant orders of the Secretary of Labor.

6) The Contractor will furnish all information and reports required by rules, regulations, and orders of the Secretary of Labor, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7) In the event of the Contractor's noncompliance with the nondiscrimination clauses this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with authorized procedures, and such other sanctions may be imposed and remedies invoked as by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8) The Contractor will include the above applicable provisions in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

9) The Town further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the City is a state or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

10) The Town agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

11) The Town further agrees that it will refrain from entering into any contract or contract modification with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to any applicable Executive Order and will carry out such sanctions and penalties for violation of any applicable clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor. In addition, the Town agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Subcontracting Contractor acknowledges that if Contractor intends to enter into subcontracts for any portion of the work under this Agreement, Contractor may take the affirmative steps described in 2 C.F.R. § 200.321 to ensure that small business firms, minority business firms, women's business enterprises, and labor surplus area firms are solicited when possible, to the extent doing so is consistent with applicable local, State, and Federal law.

Implementing the above provisions for new contracts should at least demonstrate that the Town is trying to comply with the ever-evolving rules and regulations, and as of now, we think this is enough. I'll make sure I keep you updated on any other actions that might become necessary in the future.

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

Copeland Anti-Kickback Act: Exempt under FEMA Public Assistance Funding

FEDERAL HIGHWAY ADMINISTRATION
EMERGENCY RELIEF (ER) PROGRAM

FHWA ER funding is applicable to debris removal based on declarations. A disaster declaration/proclamation is required, either from the President or the Governor, and FHWA must concur on a Governor's proclamation. However, in areas where FEMA Public Assistance is available following a natural disaster, debris removal will not be reimbursed by FHWA.

The following FHWA 1273 provisions are applicable only when an emergency declaration has been only been made by the Governor.

FHWA 1273 Exceptions:

IV. Davis-Bacon Act and Related Provisions: Exempt under FHWA Emergency Relief Funding

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Non-segregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
XI. Certification Regarding Use of Contract Funds for Lobbying
XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH–1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH–347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH–347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* $31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its reprocurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. **Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

*****

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

* * * * *

3. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B) This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

Compliance with Federal Law, Regulations, And Executive Orders and Acknowledgement of Federal Funding

Certification

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

If the Contractor subcontracts any of the work required under this Agreement, a copy of the signed subcontract must be available to the Town for review and approval. The Contractor agrees to include in the subcontract that (1) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Town and the Grantor Agency harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Town may document in the quarterly report the Contractor's progress in performing its work under this agreement.

On behalf of my firm, I acknowledge, the grant requirements identified in this document.

Vendor/Contractor Name TFR Enterprises, Inc

Date 4/14/2026

Authorized Signature _____

Town of Fort Myers Beach

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (I)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Tipton F. Rowland
Name

PHQDU2KY4JM9
SAM.gov Unique Entity ID (UEI) Number

CEO
Title

0R4H4
CAGE Number

TFR Enterprises, INC
Firm

601 Leander Dr. Leander, TX 78641
Street Address, City, State, Zip

Signature

TOWN OF FORT MYERS BEACH

ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT

Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.

A. PRIME VENDOR/CONTRACTOR INFORMATION

PRIME NAME	PRIME FEID NUMBER	CONTRACT DOLLAR AMOUNT
TFR Enterprises, Inc	72-1149862	TBD

IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?	VETERAN	Y (N)	IS THE ACTIVITY OF THIS CONTRACT...	
	DBE?	Y (N)	CONSTRUCTION?	(Y) N
	MBE?	Y (N)	CONSULTATION?	Y N
	WBE?	Y (N)	OTHER?	Y N
	SDB 8A?	Y (N)		

IS THIS SUBMISSION A REVISION? Y (N) IF YES, REVISION NUMBER _____

B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION

DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
WBE	Lyellco	Disaster Response	O	TBD	10-20%
			TOTALS:		

C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR

NAME OF SUBMITTER	DATE	TITLE OF SUBMITTER
Tipton F. Rowland	05/28/2026	CEO
EMAIL ADDRESS OF PRIME (SUBMITTER)	**TELEPHONE NUMBER**	**FAX NUMBER**
tiffany@tfrinc.com	512-565-0710	512-528-1942

NOTE: This information is used to track and report anticipated DBE or MBE participation in federally-funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a contract, the prime will be asked to update the information for the grant compliance files.

ETHNICITY	CODE
Black American	BA
Hispanic American	HA
Native American	NA
Subcont. Asian American	SAA
Asian-Pacific American	APA
Non-Minority Women	NMW
Other: not of any other group listed	O

D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH

DEPARTMENT NAME	CONTRACT # (IFB/RFP or PO/REQ)	GRANT PROGRAM/CONTRACT

ACCEPTED BY:	DATE

LOBBYING CERTIFICATION
(To be submitted with each bid or offer exceeding $100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

TFR Enterprises, Inc.
Contractor (Firm Name)


Signature of Contractor's Authorized Official

Tipton F. Rowland, CEO
Name and Title of Contractor's Authorized Official

4/14/26
Date

EXHIBIT "J"

OTHER EXHIBITS/ ATTACHMENTS

Description: AFFIDAVIT REGARDING LABOR AND SERVICES

☒ following this page (pages 1 through 1)

☐ this exhibit is not applicable

AFFIDAVIT REGARDING LABOR AND SERVICES

AND CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN PROHIBITED

Effective July 1, 2024, pursuant to § 787.06(13), Florida Statutes, when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services.

Effective January 1, 2024, a governmental entity may not accept a bid on, a proposal for, or a reply to, or enter into, a contract with an entity which would grant the entity access to an individual's personal identifying information unless the entity provides the government with an affidavit signed by an officer or representative under penalty of perjury attesting that the entity does not meet any of the following criteria: (a) the entity is owned by the government of a foreign country of concern; (b) the government of a foreign country of concern has a controlling interest in the entity; or (c) the entity is organized under the laws of or has its principal place of business in a foreign country of concern.

Effective July 1, 2025, when an entity extends or renews a contract with a governmental entity which would grant the entity access to an individual's personal identifying information, the entity must provide the governmental entity with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of the criteria in paragraphs (2)(a)-(c), § 287.138, Florida Statutes.

Nongovernmental Entity's Name:	TFR Enterprises, Inc
Address:	601 Leander Dr. Leander, TX. 78641
Phone Number:	(512) 260-3322
Authorized Representative's Name:	Tipton F. Rowland
Authorized Representative's Title:	CEO
Email Address:	tiffany@tfrinc.com

I, Tipton F. Rowland (Name of Authorized Representative), as authorized representative attest under penalty of perjury that TFR Enterprises, Inc (Name of Nongovernmental Entity) does not: (1) use coercion for labor or services as defined in § 787.06, Florida Statutes, and (2) the nongovernmental entity is not (a) owned by a government of a foreign country of concern, (b) that a foreign country of concern does not have a controlling interest in the entity, and (c) that the entity is not organized under the laws of or has its principal place of business in a foreign country of concern, all as prohibited under § 287.138, Florida Statutes.

Under penalty of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.

TF — 4/14/2026

(Signature of authorized representative) Date

STATE OF Texas

COUNTY OF Williamson

Sworn to (or affirmed) and subscribed before me, by means of ☑ physical presence or ☐ online notarization this 14th day of April, 2026, by Tipton F. Rowland (Name of Affiant), who produced his ~~Florida~~ Texas Driver's License as identification.

Tiffany J. Jean
Notary Public

Commission Expires

TIFFANY J. JEAN
My Notary ID # 123933814
Expires January 27, 2030

Personally Known ☑ OR Produced Identification ☐

Type of Identification Produced: _____

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-568**

1. **Request:**

Meeting Date: June 15, 2026

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AGREEMENTS FOR ELECTRICAL SERVICES WITH BRITTANIA ELECTRIC II, LLC AND GULF SHORE ELECTRIC, LLC BASED ON PRICING COMPETITIVELY PROCURED BY LEE COUNTY; AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

Approval of the resolution is necessary to allow the Town to enter into a contract with Brittania Electric II, LLC and Gulf Shore Electric, L.L.C. ("Contractor"), for electrical restoration and lighting installation services along Old San Carlos Boulevard and at Bayside Park, which remain unrestored following Hurricane Ian.

What the action accomplishes:

The proposed resolution allows the Town to expeditiously contract with the Contractor(s), by using the Agreement for demolition services with Lee County as a "piggyback" contract and avoiding any additional delay which may result from competitive bidding.

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
ADMINISTRATIVE AGENDA	Resolution	Jeff Hauge, Community Services Director

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5. **Background:**

The Town of Fort Myers Beach issued Solicitation No. 26-15-PW, Invitation to Bid for Old San Carlos Boulevard and Times Square Lighting Restoration, on April 15, 2026, with bids due May 15, 2026. The solicitation was publicly advertised through the Town's online bidding system, DemandStar, in accordance with the Town's procurement ordinance. No bids were received by the submission deadline. As a result, the Town was unable to award a contract through the competitive bidding process.

The Lee County Board of County Commissioners entered into an Agreement for Electrical Services – Master Annual with Brittania Electric II, LLC and Gulf Shore Electric, L.L.C. (the "Contractor"), under Solicitation No. RFP240339CFC, with an effective date of February 2, 2025. The contract has an initial one-year term with up to three additional one-year renewal options upon mutual written agreement of the parties.

The Town has an ongoing need for electrical restoration and lighting installation services along Old San Carlos Boulevard and at Bayside Park. Use of a piggyback agreement, following Town Ordinance 26-06 Section 2-480(f), and incorporating the Lee County contract with the Contractor will allow the Town to procure the needed services without conducting a new solicitation, consistent with the Town's procurement policies and applicable law.

Attachments:

1. NS Resolution 26-104 Brittania Gulf Shore Electric
2. Exhibit A - Brittania Piggyback Contract
3. Exhibit B - Gulf Shore Piggyback Contract

Financial Impact:

The Finance Director has indicated that adequate funding is available to proceed with contracting for electrical services and that piggybacking on the County Agreement is advantageous to the Town.

6. **Alternative Action**
Do not approve and have no electrical service providers.

7. **Management Recommendations:**
Approve

8. **Recommended Approval:**

Conor Nally, Contracts & Procurement Manager	Created/Initiated - 5/29/2026
Joe Onzick, Finance Director	Approved - 6/4/2026
Carolyn Luomala, Acting Controller	Approved - 6/8/2026
nancy stuparich, Town Attorney	Approved - 6/8/2026
Amy Baker, Town Clerk	Approved - 6/8/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-104

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING AGREEMENTS FOR ELECTRICAL SERVICES WITH BRITTANIA ELECTRIC II, LLC AND GULF SHORE ELECTRIC, LLC BASED ON PRICING COMPETITIVELY PROCURED BY LEE COUNTY; AUTHORIZING THE MAYOR OR TOWN MANAGER TO SIGN THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town of Fort Myers Beach issued Solicitation No. 26-15-PW, Invitation to Bid for Old San Carlos Boulevard and Times Square Lighting Restoration, on April 15, 2026, with bids due May 15, 2026, and the solicitation was publicly advertised through the Town's online bidding system, DemandStar, in accordance with the Town's procurement ordinance; and

WHEREAS, no bids were received by the submission deadline, and as a result the Town was unable to award a contract through the competitive bidding process; and

WHEREAS, the Lee County Board of County Commissioners entered into an Agreement for Electrical Services – Master Annual with Brittania Electric II, LLC and Gulf Shore Electric, L.L.C. (the "Contractors") under Solicitation No. RFP240339CFC, with an effective date of February 2, 2025, for an initial one-year term and up to three additional one-year renewal options upon mutual written agreement of the parties; and

WHEREAS, the Town has an ongoing need for electrical restoration and lighting installation services along Old San Carlos Boulevard and at Bayside Park, and, pursuant to Section 2(f) of the Town's Purchasing Ordinance 26-06, may utilize competitively solicited contracts awarded by other governmental entities. Accordingly, use of a piggyback agreement incorporating the competitive pricing negotiated by Lee County in its contracts with the Contractors will allow the Town to procure the needed services without conducting a new solicitation, consistent with the Town's procurement policies and applicable law; and

WHEREAS, the adoption of this Resolution is in the best interest of the residents of Fort Myers Beach.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby 1) approves the Agreement for Electrical Services with Brittania Electric II, LLC and with Gulf Shore Electric, LLC, a copy of which is attached as Exhibits A and B, based on pricing competitively procured by Lee County under Solicitation No. RFP240339CFC:, and 2) authorizes the Mayor or Town Manager to execute the agreements on behalf of the Town.

Section 3. This resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	____
Scott Safford, Vice Mayor	____
John R. King, Council Member	____
Rebecca Link, Council Member	____
John McLean, Council Member	____

ADOPTED this ___ day of June 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

_____
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: _____.

AGREEMENT FOR GOODS AND SERVICES COMPETITIVELY PROCURED BY LEE COUNTY, FLORIDA

THIS AGREEMENT is made and entered into this 15th day of June, 2026, by and between the Town of Fort Myers Beach, Florida ("Town"), a Florida municipal corporation whose principal place of business is 6231 Estero Blvd., Fort Myers Beach, FL 33931, and Brittania Electric II, LLC, a Florida Limited Liability Company authorized to do business in the State of Florida, ("Contractor"), whose principal place of business is 1840 Boy Scout Dr. Ste B. Fort Myers, FL 33907, and whose federal tax identification number is 46-1775223 ("Contract" or "Agreement"). Town and Contractor may also be referred to collectively as the "Parties."

WHEREAS, Contractor and Lee County, Florida, have entered into a competitively procured contract known as #RFP240339CFC AGREEMENT FOR ELECTRICAL SERVICES – MASTER ANNUAL, which has been subsequently amended by the parties ("Lee County Contract"); and

WHEREAS, the Town is in need of electrical services from the Vendor in connection with "Electrical Services – Master Annual"; and

WHEREAS, the Town desires to have Contractor provide the needed goods and services; and

WHEREAS, under the Town Code, the purchase of goods and services under a contract awarded by another governmental entity is authorized, provided the finance department director makes a written determination that time and expense factors make it financially advantageous for the Town to do so; and

WHEREAS, Contractor is willing to provide goods and services, subject to the terms and conditions of the Contract, with the specific modifications set forth herein; and

WHEREAS, the Town's finance department director has determined that piggybacking on the Lee County Contract is financially advantageous to the Town; and

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning the contractor's compliance for Florida's Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency's statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 287.133 and 287.135, Fla. Stat., provides restrictions on local governments contracting with companies that are on certain Scrutinized Companies lists or convicted vendor list; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern." Any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, Section 787.06(13), Florida Statutes provides that when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in such statute.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the parties do mutually agree as follows:

1. Incorporation of Lee County Contract. This Contract incorporates by reference, the Lee County Contract, which is attached as Exhibit "A," except as otherwise provided herein.

2. Scope of Services. During the term of this Contract, Contractor will provide all labor, supervision, equipment, materials, and expertise required to perform electrical services.

3. Pricing. The Town will pay Contractor a sum not to exceed $650,000 for all goods and services. This sum will be Contractor's sole compensation for the goods and services provided by Contractor under this Agreement.

4. Contract Term. The term of this Agreement begins on the date set forth above and ends on February 1, 2027, unless renewed by the County under its original agreement.

5. Designated Representative. The Town's Director of Community Services, or designee, shall be the Town's Designated Representative in matters arising under this Agreement:

Jeff Hauge
Town of Fort Myers Beach
6231 Estero Blvd.
Fort Myers Beach, FL 33931

jhauge@fmbgov.com

6. Modifications to Lee County Contract. Notwithstanding the incorporation of the Lee County Contract into this Agreement as referenced, the Parties hereby agree that all references in the Lee County Contract to terms such as "County" or "City" will be deemed to refer to the Town. In addition, all references in the Lee County Contract to specific officers/ departments/ divisions, or to specific locations (such as for delivery of goods/services, receipt of Contractor invoicing, etc.), if not specifically addressed in this Agreement, will be deemed to refer to the equivalent Town officers/departments/divisions, and Town locations, as hereafter designated by the Town's Designated Representative.

The following modifications to the Special Conditions of the Lee County Contract shall apply to this Agreement:

I. Term (Special Condition 1). The term of this Agreement begins on the date set forth above and ends on February 1, 2027, unless renewed by the Town under the original agreement.
II. Pricing (Special Condition 6). The pricing, rate categories, material markup limitations, and rental equipment provisions set forth in Special Condition 6 and Exhibit B of the Lee County Contract shall apply to this Agreement without modification.
III. Permits (Special Condition 7). Permits as required shall be the responsibility of the Contractor. Permit fee references to Lee County shall be deemed to refer to the Town of Fort Myers Beach and its applicable permitting authority.
IV. Invoices (Special Condition 8). Invoice requirements set forth in Special Condition 8 shall apply to this Agreement. All references to "County employee" shall be deemed to refer to the authorized Town employee or designee.
V. Inapplicable Provisions. Special Conditions 2 (Basis of Award), 3 (Local Preference), 4 (Allocation of Work), and 5 (Work Authorization) of the Lee County Contract are specific to Lee County's internal procurement procedures and shall not apply to this Agreement.

7. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

(a) Keep and maintain public records required by the public agency to perform the service.
(b) Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter 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 records to the public agency.

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency 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 records stored electronically must be provided to the public agency, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

(e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TOWN HALL
6231 ESTERO BLVD.
FORT MYERS BEACH, FL 33931
(239)765-0202

8. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

9. Compliance/Consistency with Section 768.28, Florida Statutes. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Florida Statutes and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

10. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process.

If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

11. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes, "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

12. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000.00) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract

is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

13. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth is Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to Section 268.101(7), Florida Statutes: "In addition to any fine assessed under [Section 286.101(7)(a), Florida Statutes], 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."

14. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

15. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.

16. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

17. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes, in the event of a data breach.

18. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

19. Breach of Agreement for Goods or Services Related to Emergency Response for Natural Disaster Pursuant to Section 252.505, Florida Statutes. Pursuant to Sec. 252.505, Fla. Stat., if Contractor breaches this agreement during an emergency recovery period (1-year period beginning upon Governor's initial declaration of a natural emergency) Contractor shall pay a $5,000 penalty and damages, which may be either actual and consequential damages or liquidated damages in addition to any other consequential damages or liquidated damages that may otherwise be due under the terms of the agreement.

20. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

21. No Coercion for Labor or Services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., Contractor declares that Contractor has read the foregoing Section 20 above and that the facts stated in it are true.

CONTRACTOR:

_____

Print Name: _____

Title: _____

Company: _____

ATTEST:

_____
Amy Baker, Town Clerk

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, Town Attorney

AGREEMENT FOR GOODS AND SERVICES COMPETITIVELY PROCURED BY LEE COUNTY, FLORIDA

THIS AGREEMENT is made and entered into this 15th day of June, 2026, by and between the Town of Fort Myers Beach, Florida ("Town"), a Florida municipal corporation whose principal place of business is 6231 Estero Blvd., Fort Myers Beach, FL 33931, and Gulf Shore Electric, L.L.C., a Florida Limited Liability Company authorized to do business in the State of Florida, ("Contractor"), whose principal place of business is 1498 Rail Head Blvd. Naples, FL 34110, and whose federal tax identification number is 83-1778820 ("Contract" or "Agreement"). Town and Contractor may also be referred to collectively as the "Parties."

WHEREAS, Contractor and Lee County, Florida, have entered into a competitively procured contract known as #RFP240339CFC AGREEMENT FOR ELECTRICAL SERVICES – MASTER ANNUAL, which has been subsequently amended by the parties ("Lee County Contract"); and

WHEREAS, the Town is in need of electrical services from the Vendor in connection with "Electrical Services – Master Annual"; and

WHEREAS, the Town desires to have Contractor provide the needed goods and services; and

WHEREAS, under the Town Code, the purchase of goods and services under a contract awarded by another governmental entity is authorized, provided the finance department director makes a written determination that time and expense factors make it financially advantageous for the Town to do so; and

WHEREAS, Contractor is willing to provide goods and services, subject to the terms and conditions of the Contract, with the specific modifications set forth herein; and

WHEREAS, the Town's finance department director has determined that piggybacking on the Lee County Contract is financially advantageous to the Town; and

WHEREAS, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning the contractor's compliance for Florida's Public Records Act; and

WHEREAS, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

WHEREAS, Florida law requires that public agency contracts be subject to non-appropriation and thereby contingent upon appropriation during the public agency's statutorily mandated annual budget approval process; and

WHEREAS, Section 448.095, Fla. Stat., imposes certain obligations on public agencies with regard to the use of the E-Verify system by their contractors and subcontractors; and

WHEREAS, Section 287.133 and 287.135, Fla. Stat., provides restrictions on local governments contracting with companies that are on certain Scrutinized Companies lists or convicted vendor list; and

WHEREAS, additional terms consistent with Sections 282.3185(5) and (6) related to data management and Section 287.05701 related to social government and corporate activism are also added by virtue of this Addendum; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern." Any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, Section 787.06(13), Florida Statutes provides that when a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in such statute.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the parties do mutually agree as follows:

1. Incorporation of Lee County Contract. This Contract incorporates by reference, the Lee County Contract, which is attached as Exhibit "A," except as otherwise provided herein.

2. Scope of Services. During the term of this Contract, Contractor will provide all labor, supervision, equipment, materials, and expertise required to perform electrical services.

3. Pricing. The Town will pay Contractor a sum not to exceed $650,000 for all goods and services. This sum will be Contractor's sole compensation for the goods and services provided by Contractor under this Agreement.

4. Contract Term. The term of this Agreement begins on the date set forth above and ends on February 1, 2027, unless renewed by the County under its original agreement.

5. Designated Representative. The Town's Director of Community Services, or designee, shall be the Town's Designated Representative in matters arising under this Agreement:

Jeff Hauge
Town of Fort Myers Beach
6231 Estero Blvd.
Fort Myers Beach, FL 33931

jhauge@fmbgov.com

6. Modifications to Lee County Contract. Notwithstanding the incorporation of the Lee County Contract into this Agreement as referenced, the Parties hereby agree that all references in the Lee County Contract to terms such as "County" or "City" will be deemed to refer to the Town. In addition, all references in the Lee County Contract to specific officers/ departments/ divisions, or to specific locations (such as for delivery of goods/services, receipt of Contractor invoicing, etc.), if not specifically addressed in this Agreement, will be deemed to refer to the equivalent Town officers/departments/divisions, and Town locations, as hereafter designated by the Town's Designated Representative.

The following modifications to the Special Conditions of the Lee County Contract shall apply to this Agreement:

I. Term (Special Condition 1). The term of this Agreement begins on the date set forth above and ends on February 1, 2027, unless renewed by the Town under the original agreement.
II. Pricing (Special Condition 6). The pricing, rate categories, material markup limitations, and rental equipment provisions set forth in Special Condition 6 and Exhibit B of the Lee County Contract shall apply to this Agreement without modification.
III. Permits (Special Condition 7). Permits as required shall be the responsibility of the Contractor. Permit fee references to Lee County shall be deemed to refer to the Town of Fort Myers Beach and its applicable permitting authority.
IV. Invoices (Special Condition 8). Invoice requirements set forth in Special Condition 8 shall apply to this Agreement. All references to "County employee" shall be deemed to refer to the authorized Town employee or designee.
V. Inapplicable Provisions. Special Conditions 2 (Basis of Award), 3 (Local Preference), 4 (Allocation of Work), and 5 (Work Authorization) of the Lee County Contract are specific to Lee County's internal procurement procedures and shall not apply to this Agreement.

7. Public Records Compliance. Contractor agrees that, to the extent that it may "act on behalf" of the Town within the meaning of Section 119.0701(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

(a) Keep and maintain public records required by the public agency to perform the service.
(b) Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter 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 records to the public agency.

(d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency 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 records stored electronically must be provided to the public agency, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

(e) Pursuant to Section 119.0701(2)(a), Fla. Stat., **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 AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TOWN HALL
6231 ESTERO BLVD.
FORT MYERS BEACH, FL 33931
(239)765-0202

8. Public Records Compliance Indemnification. Contractor agrees to indemnify and hold the Town harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

9. Compliance/Consistency with Section 768.28, Florida Statutes. Any indemnification or agreement to defend or hold harmless by Town specified in the Agreement shall not be construed as a waiver of Town's sovereign immunity and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Florida Statutes and subject to the procedural requirements set forth therein. Any other purported indemnification by Town in the Agreement in derogation hereof shall be void and of no force or effect.

10. Non-appropriation. Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process.

If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

11. E-Verify Compliance. By entering into this Agreement, the Contractor is obligated to comply with the provisions of Section 448.095, Florida Statutes, "Employment Eligibility," as amended from time to time. This includes but is not limited to register with and use the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit to Contractor attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Contractor agrees to maintain a copy of such affidavit for the duration of this Agreement. Failure to comply with this paragraph will result in the termination of this Agreement as provided in Section 448.095, Florida Statutes, as amended and Contractor will not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. Contractor will also be liable for any additional costs to the Town as a result of the termination of this Agreement in accordance with this paragraph. Contractor affirmatively states, under penalty of perjury, that in accordance with Section 448.095, Florida Statutes, Contractor is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees, that in accordance with such statute, Contractor requires from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, and that Contractor is otherwise in compliance with Sections 448.09 and 448.095, Florida Statutes.

12. Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes. Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000.00) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. Contractor hereby certifies that Contractor is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Contractor further hereby certifies that Contractor is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. Contractor understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. Contractor further understands that any contract with Town for goods or services of any amount may be terminated at the option of Town if Contractor (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract

is one million dollars ($1,000,000) or more, the contract may be terminated at the option of Town if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

13. Disclosure Requirements for "Foreign Countries of Concern." Contractor shall comply with the disclosure requirements set forth is Section 286.101(3)(a), Florida Statutes, which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to Section 268.101(7), Florida Statutes: "In addition to any fine assessed under [Section 286.101(7)(a), Florida Statutes], 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."

14. Venue and Jurisdiction. Notwithstanding any of other provision to the contrary, this Agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally consents to submit and does submit to the jurisdiction of the Circuit Court in and for Lee County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

15. Attorneys' Fees and Costs. Notwithstanding any of other provision to the contrary, if litigation ensues regarding this Agreement, each party hereto shall bear its own attorneys' fees and costs.

16. Public Entities Crime or Convicted Vendor List. Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

17. Data Management; Notice of Breach. Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes, in the event of a data breach.

18. Environmental and Social Government and Corporate Activism. The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

19. Breach of Agreement for Goods or Services Related to Emergency Response for Natural Disaster Pursuant to Section 252.505, Florida Statutes. Pursuant to Sec. 252.505, Fla. Stat., if Contractor breaches this agreement during an emergency recovery period (1-year period beginning upon Governor's initial declaration of a natural emergency) Contractor shall pay a $5,000 penalty and damages, which may be either actual and consequential damages or liquidated damages in addition to any other consequential damages or liquidated damages that may otherwise be due under the terms of the agreement.

20. Taxes. The Town shall not be liable for any taxes and assessments imposed by a federal, state or local governmental agency to the extent that the Town is exempt from same by Florida law, including but not limited to any sales or use tax.

21. No Coercion for Labor or Services. The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:

"Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., Contractor declares that Contractor has read the foregoing Section 20 above and that the facts stated in it are true.

CONTRACTOR:

_____

Print Name: _____

Title: _____

Company: _____

ATTEST:

_____
Amy Baker, Town Clerk

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, Town Attorney

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-275**

1. **Request**:

Meeting Date: **June 15, 2026**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A THIRD AMENDMENT WITH NATIONAL METERING SERVICE ("NMS") TO AUTHORIZE A METER MODEL CHANGE FROM A RADIO FREQUENCY (RF) MODEL TO A CELLULAR (CELL) MODEL FOR THE REMAINING 1 ½, 2, 3, 4, 6 INCH METER SIZES AND METER ANTENNAS INCREASING THE AMENDED PRICE BY $525,909.00 FOR A NEW TOTAL OF $2,446,761.00 TO UTILIZE CELLULAR TECHNOLOGY FOR THE ENTIRE ISLAND'S DISTRIBUTION SYSTEM FURTHER PROVIDING A RELIABLE, SAFE, AND EFFICIENT METER AND DISTRIBUTION MONITORING SYSTEM; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE THIRD AMENDMENT TO THE AGREEMENT WITH NMS; AND PROVIDING FOR AN EFFECTIVE DATE.

Why the action is necessary:

This action is necessary because the total expenditure of $525,909 is over $75,000 and adheres to Ordinance 25-11 purchasing procedures.

What the action accomplishes:

Approves Resolution 25-275 Third Amendment to provide installation of cellular meters, sizes 1 1/2, 2, 3, 4, 6 inch.

2. **Agenda**:
ADMINISTRATIVE AGENDA

3. **Requirement/Purpose**:
Resolution

4. **Submitter of Information**:
Mark Ashton, Utilities Manager, Jeff Hauge, Community Services Director

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5. **Background**:

The original Resolution 25-235 did not address the large meters because they were up to date with the radio frequency technology. Approval of resolution 25-299, converting from radio frequency style meters to a cellular-based meter, was only for 5/8 and 1 inch meters (original contract). It is necessary to install and convert the remaining meters in the system to the new technology. The meters that remain are the larger meters in the system, 1 1/2, 2, 3, 4, 6 inch meters. In order to have a fully integrated system of meter reading and billing, these remaining meters need to be replaced. These larger meters are usually the higher usage accounts. With the higher usage meters in place, we will have a great overview of our island-wide usage. This allows for constant monitoring of the entire system while also pinpointing usage rates in order for effective future system design considerations. In addition, it does save many work hours by not having to travel the island getting meter readings.

Attachments:

1. NS 26-126, 3rd Amendment to NMS Agreement for Meter Replacement
2. NS Exhibit A to Resolution 26-126 3rd amendment to NMS agreement

3. FMBLarge Meter quote NMS 1-22-26
4. National Metering Services Fort Myers Beach Agreement - Executed
5. First Amendment to NMS Agreement
6. Second Amendment Town of Fort Myers Beach signed

Financial Impact:
The meter purchase and installation costs of $525,909 will be paid from the Water fund. FEMA reimbursement is still pending.

6. **Alternative Action**
Deny the approval of Resolution 26-275 Third Amendment.

7. **Management Recommendations:**
Management recommends giving the town manager authority to execute Resolution 26-275, a third amendment to Resolution 25-235, meter replacement project.

8. **Recommended Approval:**

Mark Ashton, Utilities Manager	Created/Initiated - 5/27/2026
Jeff Hauge, Community Services Director	Approved - 5/27/2026
Conor Nally, Contracts & Procurement Manager	Approved - 6/8/2026
Carolyn Luomala, Acting Controller	Approved - 6/8/2026
nancy stuparich, Town Attorney	Approved - 6/8/2026
Amy Baker, Town Clerk	Approved - 6/8/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

RESOLUTION NUMBER 26-126

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A THIRD AMENDMENT WITH NATIONAL METERING SERVICE ("NMS") TO AUTHORIZE A METER MODEL CHANGE FROM A RADIO FREQUENCY (RF) MODEL TO A CELLULAR (CELL) MODEL FOR THE REMAINING 1 ½, 2, 3, 4, 6 INCH METER SIZES AND METER ANTENNAS INCREASING THE AMENDED PRICE BY $525,909.00 FOR A NEW TOTAL OF $2,446,761.00 TO UTILIZE CELLULAR TECHNOLOGY FOR THE ENTIRE ISLAND'S DISTRIBUTION SYSTEM FURTHER PROVIDING A RELIABLE, SAFE, AND EFFICIENT METER AND DISTRIBUTION MONITORING SYSTEM; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE THIRD AMENDMENT TO THE AGREEMENT WITH NMS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town approved an agreement with National Metering Service for **$1,619,790** with a subsequent change from the initial model utilizing radio frequency ("RF") to a cellular model ("Cell"); and

WHEREAS, the change from a RF model to a Cell model requires the changing of 1 ½, 2, 3, 4, 6, inch meters to assure the operation of a complete and consistent distribution monitoring and billing system; and

WHEREAS, the Town received a quote from NMS to furnish and install the needed 1 ½, 2, 3, 4, 6 inch meters: and

WHEREAS, NMS, who was competitively procured by the Town and awarded the bid through ITB-25-05-PW, has provided a quote for the updated meter installation costs for the 1 ½,2, 3, 4, 6 inch meters and their meter antennas, making all the Town's meters compatible with the AMI Cellular Meter Reading and Monitoring System, which was previously approved and installed by NMS; and

WHEREAS, the updated meter installation costs for the 1 ½,2, 3, 4, 6 inch meters from NMS will increase the approved project cost by $525,909.00 to a total of $2,446,761.00; and

WHEREAS, the completion of the change from a Radio Frequency ("RF") model to a Cellular ("Cell") model is in the best interest of the Town and the residents of the Town of Fort Myers Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF FORT MYERS BEACH, AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. The third amendment to the existing NMS agreement attached as Exhibit A to increase the total contract cost of products and services provided by NMS for a total contract amount of $2,446,761.00 is approved. The Town Manager is authorized to sign the third amendment to the existing agreement.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by _____ and seconded by _____ and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	___
Scott Safford, Vice Mayor	___
John R. King, Council Member	___
Rebecca Sink, Council Member	___
John McLean, Council Member	___

ADOPTED this _ _ _ day of June 2026 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

_____
Dan Allers, Mayor

ATTEST:

_____
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

_____
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on_____.

EXHIBIT A

THIRD AMENDMENT TO THE INDEPENDENT CONTRACTORS' AGREEMENT WITH NATIONAL METERING SERVICE

THIS THIRD AMENDMENT is made and entered into this 15th day of June 2026, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and NATIONAL METERING SERVICE, hereinafter referred to as "Contractor", to that certain existing Independent Contractors Agreement, dated October 14, 2025 ("Agreement") for Water Meter Replacement Program as approved by the Town Council of the Town of Fort Myers Beach on August 19, 2025 and amended on November 3, 2025 and January 2, 2026 as follows:

1. Amendment. This Third Amendment amends the existing Agreement as amended between the parties . In the event of a conflict between the terms and conditions contained in the Agreement, as amended, and this Third Amendment, the terms of this Amendment shall prevail. Attachment A to this Third Amendment provides for the modifications to the scope and pricing originally provided within the Agreement, as amended, in its Exhibits "A" and "B" to reflect the addition of 1 ½, 2, 3, 4, 5, 6 inch water meter replacement and its associated costs.

2. Available Funding. The Agreement is amended to provide that total payment for the cellular metering system and additional services through this Amendment shall not exceed $2,446,761 in FY 2025 and FY 2026 as provided in Attachment A to this Third Amendment, and replaces the total costs originally provided in Exhibit "B" and any further references to Exhibit "B" within the Agreement or First Amendment.

IN WITNESS WHEREOF, the parties have executed and delivered this instrument on the days, and year indicated below to bind the parties.

Contractor:

_____

Print Name: _____

Company: National Metering Service

ATTEST: **Town of Fort Myers Beach**

_____ _____

Amy Baker, Town Clerk **Dan Allers, Mayor**

APPROVED AS TO FORM & SUFFICIENCY

_____

Vose Law Firm, Town Attorney

National Metering SERVICES, INC.

PO Box 491
Kearny, NJ 07032
(201) 246-1115 Fax (201) 997-6520
Toll Free 1-888-448-0009

Fort Myers Beach ITB-25-05-PW LG Meter

Name:	City of Fort Myers Beach
Address:	2525 Estero Blvd
City:	Fort Myers Beach **State** FL **ZIP** 33931
Phone:	

Date:	1/12/2026
Rept:	J. Castle
Atn:	M.Ashton
Terms:	30 Days

Item No.	Qty	Description	Unit Price	TOTAL
1	80	1.5" Mach- 10 USG 13 LL	$ 1,365.00	$ 109,200.00
2	84	2" Mach- 10 USG 17 LL	$ 1,668.00	$ 140,112.00
3	46	3" Mach-10 UME USG	$ 2,814.00	$ 129,444.00
4	20	4" Mach- 10 UME USG	$ 3,750.00	$ 75,000.00
5	1	6" Mach- 10 USG MTR	$ 5,625.00	$ 5,625.00
6	231	R900I Wall Unit w/ Quick Lock	$ 288.00	$ 66,528.00
				$ -
				$ -
				$ -
				$ -
			Total	$ 525,909.00

Office Use Only

National Metering Services, Inc. Your full service meter contractor. Meter sales, service, meter system installation & turnkey packages available. Meter reading and billing services.

► *Certified Meter Testing* ▲ *Wi-Fi* ▲ *Composite Lids* ◄

Thank You

INDEPENDENT CONTRACTOR'S AGREEMENT
ITB-25-05-PW

THIS INDEPENDENT CONTRACTOR'S AGREEMENT (hereinafter this "Agreement") is effective the 1st day of October 2025 by and between the **TOWN OF FORT MYERS BEACH**, a Florida municipal corporation (hereinafter the "TOWN") and **NATIONAL METERING SERVICES, INC**, a Florida corporation (hereinafter "CONTRACTOR").

WITNESSETH

WHEREAS, the TOWN is a municipal corporation in the State of Florida, having a responsibility to provide certain services to benefit the citizens of the TOWN OF FORT MYERS BEACH; and

WHEREAS, the TOWN has the full power and authority to enter into the transactions contemplated by this Agreement; and

WHEREAS, CONTRACTOR is in the business of Water Meter Replacement Program in the TOWN and elsewhere in the State of Florida; and

WHEREAS, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates; and

WHEREAS, CONTRACTOR was the successful bidder for an advertised Invitation to Bid identified as ITB-25-05-PW, "WATER METER REPLACEMENT PROGRAM," which satisfies the TOWN's Procurement Policy; and

WHEREAS, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern". Any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

WHEREAS, CONTRACTOR agrees to provide such goods and services as more particularly described in this Agreement, as well as in any bid or proposal documents issued in connection with this project.

NOW THEREFORE in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:

1) **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.

2) **Description of Work.**

a) The TOWN hereby retains CONTRACTOR to furnish goods and services as described in the Scope of Services, which is attached hereto as **Exhibit "A"** and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in **Exhibit "A"** will be resolved in favor of the body of this Agreement.

CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Services, unless specifically excluded.

b) CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB) (here, ITB-25-05-PW), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the TOWN, together with any addenda, hereinafter the "Bid Documents, as applicable." The Bid Documents, as applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.

3) **Commencement and completion/Term.**

a) CONTRACTOR must commence work under this Agreement immediately upon receipt by CONTRACTOR of the Notice to Proceed and must and must complete the work not later than 120 calendar days thereafter.

b) Liquidated damages will be assessed against CONTRACTOR in the amount of $500.00 per day, for each day beyond the Final Completion deadline that the work contemplated by this Agreement is incomplete. The Town shall have the right to deduct all liquidated damages due from the final payment request as well as any retainage if completion deadline is delayed by the contractor's actions only. However, CONTRACTOR shall not be assessed liquidated damages for delays in completion caused by acts of the Town or its employees, acts of God, or other events beyond the control of CONTRACTOR.

4) **Payment.**

a) The TOWN agrees to compensate CONTRACTOR, for work actually performed under this Agreement, at the rate or basis described in **Exhibit "B"**, which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Services, but in no event will CONTRACTOR be paid more than the negotiated amounts set forth in **Exhibit "B."**

b) Progress payments, if any, will be made as set forth in **Exhibit "B".**

c) The TOWN reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations upon prompt and reasonable notice by the TOWN. CONTRACTOR must, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.

5) **Acceptance of work product, payment, and warranty**.

a) **Installment Payments.** Upon receipt of a periodic work product or notice that work has progressed to a point of payment in accordance with **Exhibit "B"** attached or the Bid Documents, if any, together with an invoice sufficiently itemized to permit audit, the TOWN will diligently review those documents. When it finds the work acceptable under this Agreement the installment payment, found to be due to CONTRACTOR, will be paid to CONTRACTOR within thirty (30) days after the date of receipt of the invoice, unless another payment schedule is provided in **Exhibit "B"**. TOWN acceptance of work and corresponding payment shall not be unreasonably withheld.

b) **Final Payment.** Upon receipt of written notice that the work is ready for final inspection and acceptance, the TOWN will promptly make such inspection. When it finds the work acceptable under this Agreement and the contract fully performed, it will promptly issue a final certificate stating that the work provided for in this Agreement has been completed, and acceptance by the TOWN under the terms and the conditions thereof, is recommended and the entire balance, found to be due to CONTRACTOR, will be paid to CONTRACTOR within thirty (30) days after the date of the final certificate. Before issuance of final certificate, CONTRACTOR must submit an affidavit satisfactory to the TOWN that all payrolls, subcontractors, materialmen, and other similar bills and indebtedness connected with the work have been paid.

c) **Warranty.** CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the TOWN) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the TOWN in writing if it appears, in CONTRACTOR's professional judgement that the data or information provided by the TOWN for use in CONTRACTOR's work product is incomplete, defective, or unreliable. CONTRACTOR shall provide its standard warranty, which includes 12-month workmanship warranty covering all workmanship.

d) **Performance Guarantee.** CONTRACTOR guarantees to repair, replace or otherwise make good to the satisfaction of the TOWN any defect in workmanship or material appearing in the work; and further guarantees the successful performance of the work for the service intended. Neither inspection nor payment, including final payment, by the TOWN will relieve CONTRACTOR from its obligations to do and complete the work in accordance with this Agreement. If the TOWN deems it inexpedient to require CONTRACTOR to correct deficient or defective work, the TOWN will make an equitable deduction from the contract price, or, in the alternative, the TOWN may seek damages.

CONTRACTOR shall provide a thirty (30) day warranty for leaks occurring within three (3) feet after the meter, as well as its standard warranty, which includes a 12-month workmanship warranty covering all workmanship.

6) **Termination.**

a) Termination at Will: This Agreement may be terminated by the TOWN in whole or in part at any time without cause by the TOWN giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

b) Termination for Cause: This Agreement may be terminated by either party for cause by the TOWN or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.

7) **Project management.**

a) The Project Managers for this project are as follows. Any subsequent changes to the Project Manager for either party may be provided by notice as described in paragraph 8 below and does not require an amendment to this Agreement.

(1) TOWN's Project Manager is: Mark Ashton, Utilities Manager

(2) CONTRACTOR's Project Manager is: Gary Hunter

8) **Notices.** All notices to the parties under this Agreement must be in writing and sent certified mail to:

a) To TOWN: Fort Myers Beach Town Council, Attention: Town Manager, 6231 Estero Blvd, FORT MYERS BEACH, Florida 33931;

b) To CONTRACTOR: NATIONAL METERING SERVICES Attention: WILLIAM CAASTLE, President, 235 Hatteras Avenue Suite 200, Clemont, Florida 34711.

9) **Insurance.**

a) CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the TOWN from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement,

either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.

b) The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:
   i) Workers' Compensation (unless exempt) with Employers' Liability with a limit of $500,000.00 each accident, $500,000.00 each employee, $500,000.00 policy limit for disease.
   ii) Commercial General Liability (CGL) insurance with a limit of not less than $1,000,000.00 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location and project in the amount of $1,000,000.00. Products and completed operations aggregate shall be $1,000,000.00. CGL insurance shall be written on an occurrence form and include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury, and advertising injury. Damage to rented premises shall be included at $100,000.00.
   iii) Commercial Automobile Liability Insurance with a limit of not less than $1,000,000.00 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos) and such policy shall be endorsed to provide contractual liability coverage; and
   iv) Fire damage liability shall be included at $500,000.00.

c) CONTRACTOR must furnish the TOWN with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The TOWN is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30-day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the TOWN before commencement of any work activities.

d) The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self–insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.

10) **General Provisions.** CONTRACTOR must comply with the following general provisions:

a) **Bond.** If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the TOWN, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the TOWN to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the TOWN. The TOWN will not make any further payment to CONTRACTOR, nor will any further payment be deemed to be due to CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the TOWN.

b) **Compliance with Laws.** In providing the Scope of Services, CONTRACTOR must comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations pertaining to or regulating the provision of such services, including those now in effect and hereafter adopted.

c) **Personal nature of Agreement; Assignment.**

i) The parties acknowledge that the TOWN places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal, and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the TOWN.

ii) If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the TOWN Project Manager prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.

d) **Discrimination.**

i) CONTRACTOR shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. CONTRACTOR shall not exclude any person, on the grounds of age, ethnicity, race, religious belief, disability, national origin, or sex, from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under, this Agreement.

ii) CONTRACTOR shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.

e) **Independent contractor.**

i) CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the TOWN. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the TOWN. None of the benefits, if any,

provided by the TOWN to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the TOWN to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the TOWN and is subject to the TOWN's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The TOWN will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.

ii) CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.

iii) CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

f) **Indemnification.**

i) CONTRACTOR must indemnify and hold the TOWN harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the TOWN, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR’s performance under this Agreement or by any person on CONTRACTOR’s behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property as a result of the contractors acts or omissions. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR’s agents, employees, and subcontractors). CONTRACTOR must further indemnify the TOWN against any claim that any product purchased or licensed by the TOWN from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the TOWN by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR’s execution of this Agreement. CONTRACTOR’s obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all

other legal remedies available to the TOWN and not considered to be the TOWN's exclusive remedy.

ii) In the event that any claim in writing is asserted by a third party which may entitle the TOWN to indemnification, the TOWN must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the TOWN decides to participate in the proceeding or defense, the TOWN will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days' notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.

iii) The indemnification provisions of this paragraph will survive the termination of this Agreement.

g) **Sovereign Immunity**. Nothing in this Agreement extends, or will be construed to extend, the TOWN's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the TOWN to be sued by third parties in any matter arising out of this Agreement.

h) **Public records.**

i) CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

(1) Keep and maintain public records required by the TOWN to perform the service.

(2) Upon request from the TOWN's custodian of public records, provide the TOWN 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 or as otherwise provided by law.

(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 this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the TOWN.

(4) Upon completion of this Agreement, transfer, at no cost, to the TOWN all public records in possession of CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If CONTRACTOR transfers all public records to the TOWN upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from

public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in a format that is compatible with the information technology systems of the TOWN.

ii) "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.

iii) If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.

iv) CONTRACTOR consents to the TOWN's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by TOWN.

v) CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the TOWN.

vi) **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, TOWN CLERK, AT (239) 765-0202, FMBPUBLICRECORDS@FMB.GOV; MAILING ADDRESS: 6231 ESTERO BLVD, FORT MYERS BEACH, FLORIDA 33931.**

i) **Public Records Compliance Indemnification.** Contractor agrees to indemnify and hold the County harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.

j) **Non-Appropriation.** Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the

Agreement at fiscal year-end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.

k) **Federal or State Funding**. If any portion of the funding for this Agreement is derived from the State of Florida, or any department of the State of Florida, or from federal funding through the State of Florida, the provisions of this sub-paragraph shall apply, provisions elsewhere in this Agreement to the contrary notwithstanding. CONTRACTOR shall make inquiry from the TOWN's Project Manager to determine whether Federal or State funding is applicable to this Agreement.

i) E-Verify. CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR during the Term of this Agreement.

ii) Agency. CONTRACTOR agrees and acknowledges that it, its employees, and its subcontractors are not agents or employees of the Federal Government, of the State of Florida, or of any department of the Federal Government or the State of Florida.

iii) Indemnification. To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless the TOWN, the Federal Government, the State of Florida, any department of the Federal Government or the State of Florida, and all officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the TOWN's sovereign immunity.

iv) Workers' Compensation Insurance. CONTRACTOR must provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, CONTRACTOR must ensure that the subcontractor(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), CONTRACTOR must ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. CONTRACTOR must ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

v) Liability Insurance. Contractor shall carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida.

CONTRACTOR shall cause the State of Florida to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the State of Florida as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to this Agreement. The policy/ies and coverage described herein may be subject to a deductible. CONTRACTOR shall pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. At all renewal periods which occur prior to final acceptance of the work, the TOWN and the State of Florida shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The TOWN and the State of Florida shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any po1icy or coverage described herein. The TOWN's or the State of Florida's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the TOWN or the State of Florida may have.

vi) Inspections. CONTRACTOR shall permit, and require its subcontractors to permit, the TOWN's and the State of Florida's authorized representatives to inspect all work, materials, payrolls, and records, to audit the books, records, and accounts pertaining to the financing and development of the Services described herein and in the bid documents.

vii) Auditor General Cooperation. CONTRACTOR shall comply with §20.055 (5), Florida Statutes, and shall incorporate in all subcontracts the obligation to comply with §20.055 (5), Florida Statutes.

l) **Federal Funding Requirements.** All or a portion of the funding for this project may be derived from federal funding, which requires that certain terms be incorporated into agreements funded thereby. This Agreement is subject to, and CONTRACTOR shall comply with, the provisions and terms set forth in **Exhibit D** ("Federal Supplemental Conditions") attached hereto and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in **Exhibit D** will be resolved in favor of **Exhibit D**.

m) **Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes.** Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services

of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars ($1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. CONTRACTOR hereby certifies that CONTRACTOR is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. CONTRACTOR further hereby certifies that CONTRACTOR is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. CONTRACTOR understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject CONTRACTOR to civil penalties, attorney's fees, and/or costs. CONTRACTOR further understands that any contract with TOWN for goods or services of any amount may be terminated at the option of TOWN if CONTRACTOR (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars ($1,000,000) or more, the contract may be terminated at the option of TOWN if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

n) **Disclosure Requirements for "Foreign Countries of Concern".** CONTRACTOR shall comply with the disclosure requirements set forth is section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of $100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], 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."

o) **Public Entities Crime or Convicted Vendor List**. CONTRACTOR agrees and assumes a continuous duty to disclose to the TOWN if the CONTRACTOR or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.

p) **Data Management; Notice of Breach.** CONTRACTOR shall cooperate with the TOWN and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.

q) **Environmental and Social Government and Corporate Activism.** The TOWN has not given preference or requested documentation from the CONTRACTOR based on CONTRACTOR's social, political or ideological interest. CONTRACTOR agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.

r) **No Coercion for Labor or Services.** CONTRACTOR swears under penalty of perjury that CONTRACTOR does not use coercion for labor or services as defined as follows:
   i) "Coercion" means:
      (1) Using or threatening to use physical force against any person;
      (2) Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
      (3) Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
      (4) Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
      (5) Causing or threatening to cause financial harm to any person;
      (6) Enticing or luring any person by fraud or deceit; or
      (7) Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.

11) **Miscellaneous Provisions.** The following miscellaneous provisions apply to this Agreement:

a) **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.

b) **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the TOWN staff do not suffice to legally bind the TOWN in a contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized TOWN representatives.

c) **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.

d) **Severability**. If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.

e) **Construction**. If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.

f) **Headings**. All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.

g) **Waiver**. The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the TOWN's rights under this Agreement, or of any cause of action the TOWN may have arising out of the performance of this Agreement.

h) **Force Majeure**. Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, outbreak of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Services" of this Agreement specifies that performance

by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.

i) **Law; Venue.** This Agreement is being executed in Lee County, Florida and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Lee County, Florida.

12) **Special Provisions.**

a. This Agreement is a non-exclusive contract; the TOWN is not prohibited, or deemed to be prohibited, from bidding similar services either as an independent job or a component of a larger project.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement effective the date first written above.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., CONTRACTOR declares that CONTRACTOR has read the foregoing Section 10(r) above and that the facts stated in it are true.

TOWN OF FORT MYERS BEACH

WB McKannay

William B. McKannay, Town Manager

ATTEST:

Amy Baker (Oct 20, 2025 16:01:09 EDT)

Amy Baker, Town Clerk

APPROVED AS TO FORM

Vose Law Firm, Town Attorney

NATIONAL METERING SERVICES,
a Florida Corporation

by _____
WILLIAM CASTLE as its President and authorized agent

(CORPORATE SEAL)

ATTEST: _____
Secretary

STATE OF FLORIDA
COUNTY OF Polk

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 14 day of October, 2025, by WILLIAM CASTLE, President of **NATIONAL METERING SERVICES**, a Florida corporation, on behalf of the corporation, and he/she is personally known to me or has produced_____as identification.

_____
Signature of Notary Public - State of Florida

Sheryl Cotter
_____
Printed/Typed/Stamped Name of Notary
My commission expires
Apr. 23, 2028

SHERYL COTTER
MY COMMISSION EXPIRES APR 23, 2028
#HH519296
Bonded through 1st State Insurance
NOTARY PUBLIC, STATE OF FLORIDA

WATER METER REPLACEMENT PROJECT
TECHNICAL SPECIFICATIONS

TS-1.0 Scope of Work

The Town of Fort Myers Beach (the "Town") plans to replace and standardize all water meters to a Single Meter Encoder-Receiver-Transmitter (RT) combination. The combination meter will allow the Town to collect meter readings remotely and upload the data through the Advanced Metering Infrastructure (AMI) system. The AMI System will improve accuracy and efficiencies in the water meter readings collections, health monitoring and leak detection.

The Bidder is expected to purchase materials and equipment for approximately 3,000 water meters and complete the installation for the residential properties. Bidder is also required to purchase and inventory the materials and equipment.

The requirements for the Water Meter Replacement project also includes, but is not limited to, the repairing or replacing of the water meter box, removal of existing water meters and boxes, maintenance of traffic, trench/roadway restoration, site restoration, and all the other appurtenances necessary to complete the project. The Town currently uses two sizes of meters: 5/8 inches and 1 inch

Exception: If the meter currently has a meter box with an antenna installed, the meter will not be replaced, no further action is required.

During the course of the project, Bidder will be required to work and coordinate with multiple departments within the Town to ensure a smooth process and accuracy in reporting and documentation.

- Coordination with the Customer Service Department is critical to ensure that sectors of the Town (cycle route) are not being read or billed at the same time as meter exchanges.
- Coordination with the Water Department is needed in the process of receiving a snapshot of all water meters in the Town.

TS-2.0 Work Plan

Prior to commencement of Work the Contractor must understand the additional requirements besides the replacement of the water meter for the project:

- As needed, repair or replace curb stops.
  - Repair or replacement is to the resident's connection.
- Requirement – meter couplings required (spuds) on both sides of the new meter.
- If needed – replace the water meter box

TS-2.1 Reports

The Contractor shall maintain a record of the meter replacements through the meter exchange tickets. The Contractor shall take a photograph for the Town of each existing meter and new meter once the meter has been replaced to verify replacement has occurred.

- Serial Number
- Meter Size
- Location Address

TS-2.2 Meetings/Communication

During the project, Contractor will be required to meet, work and coordinate with multiple departments with the Town to ensure smooth transition and accuracy in reporting and documentation.

- Utilities Customer Service Department – Coordinate efforts to ensure sectors of the Town (cycle

routes) are not being read or billed at the same time of the meter exchange.
- Water Department – Coordinate if needed to receive a snapshot of the water meter.

TS-3.0 Time of Operations

The Contractor is allowed to conduct work activities during daylight hours Monday through Friday, excluding weekends and Holidays, at the Contractor's discretion, provided that the Contractor complies with all applicable labor laws. The Contractor may request in writing with minimum 5-day notice to the Town to conduct work on weekends. The Town will review each request individually.

TS-3.1 Timeline

Project duration for completion is one (1) year from the time the contract is fully executed.

TS-3.2 Testing

Performance tests and checks are required for each meter and is the Contractors responsibility. The Town will assign a representative to periodically inspect the meters, appurtenances and site restoration.

TS-3.3 Repairs

The Contractor will have 24 hours to repair any and all leaks from the time the Contractor is notified by the Town's representative.

TS-4.0 Disposal of Old Meters

All used meters are to be returned to the Town Hall, Utilities Department. The used meters must be tagged with the residential address that equipment was removed from.

TS-5.0 Warranty

The Contractor shall provide the full manufacturer warranty. In addition, the Contractor shall provide an installation warranty covering workmanship and labor for a period of three (3) months.

The Contractor will repair the leaks and related damages to the residential property at no cost to the Town.

TS-6.0 Contractors Responsibility

The Contractor also accepts sole responsibility for any damage to any person and or property resulting from their performance of the work, whether based on negligence or any other equitable claim.

TS-6.1 Noise

The Contractor shall conduct their operations to comply with all Federal, State, and local laws pertaining to noise. The Contractor shall use a decibel meter and keep records as necessary to verify the Work is being conducted accordingly.

TS-7.0 General

The Contractor shall purchase the materials and equipment required for the Project as well as be responsible for storing and inventory. Table 1 presents the required Brand Specific materials and equipment. No deviations to Table 1 are allowed.

All used meters are to be returned to the Town Hall, Utilities Department. The used meters must be tagged with the residential address that equipment was removed from.

Proposed Water Meter Replacement Materials

Size	Brand Specific	Model	Approx Number of Units
5/8 Inch	Neptune Technology Group	Mach 10 – EU1B2G1 (5/8x3/4 Mach 10 R900i v4 Gallons)	2,500
1 Inch	Neptune Technology Group	Mach 10 – EU1F2G1 (1" Mach 10 R900i v4 Gallons)	250
Antenna	Neptune Technology Group		3,000
5/8 Inch Curb Stop	Ford	B43-342W-NL (3/4" Ball Valve, Pad Wing – No Lead 1" CTS Pack Joint by 5/8"x3/4" & ¾" Meter Swivel Nut) or approved equivalent	As Needed up to 1,000 Unites
1 Inch Curb Stop	Ford	B43-444W-NL (1" Ball Valve, Pad Wing – No Lead 1" CTS Pack Joint by 1" Meter Swivel Nut) or approved equivalent	As Needed up to 150 Unites
5/8 Inch Straight Meter Coupling	Ford	C38-23-2-NL (2" Length) or approved equivalent	As Needed
1 Inch Straight Meter Coupling	Ford	C38-44-2-NL (2" Length) or approved equivalent	As Needed up to 150 unites
Meter Box	Quazite	CDR Box 11"x18"x12" Straight Wall or approved equivalent	As Needed
Meter Lid	Quazite	CDR Cover 11"x18"x12" w/ 4"x6" CIR5t or approved equivalent	As Needed

TS-8.0 Post-Work Cleanup or Obliteration

The Contractor shall obliterate all signs of Work areas, waste materials, or any other vestiges of construction as directed by Town and Engineer.

TS-8.1 Disposal

Disposal of any materials, waste, trash, garbage, etc., in areas adjacent to streams or other waters of the State shall not be permitted. If any waste material is dumped in unauthorized areas, the Contractor shall remove the material and restore the area to its original condition before being disturbed. If necessary, contaminated ground shall be excavated, disposed of as directed by the Town, and replaced with suitable fill material, compacted and finished with topsoil and planted as required to re-establish vegetation

Water Meter Replacement Project Bid Sheet					
Size	**Brand Specific**	**Model**	**Approx Number of Units**	**Unit Price**	**Extended Price**
5/8 Inch	Neptune Technology Group	Mach 10 – EU1B2G1 (5/8x3/4 Mach 10 R900i v4 Gallons)	2,500	$454.80	$1,137,000.00
1 Inch	Neptune Technology Group	Mach 10 – EU1F2G1 (1" Mach 10 R900i v4 Gallons)	250	$599.35	$149,837.50
Antenna	Neptune Technology Group		3,000	$41.00	$123,000.00
5/8 Inch Curb Stop	Ford	B43-342W-NL (3/4" Ball Valve, Pad Wing – No Lead 1" CTS Pack Joint by 5/8"x3/4" & ¾" Meter Swivel Nut) or approved equivalent	As Needed up to 1,000 Unites	$176.93	$176,930.00
1 Inch Curb Stop	Ford	B43-444W-NL (1" Ball Valve, Pad Wing – No Lead 1" CTS Pack Joint by 1" Meter Swivel Nut) or approved equivalent	As Needed up to 150 Unites	$218.12	$32,718.00
5/8 Inch Straight Meter Coupling	Ford	C38-23-2-NL (2" Length) or approved equivalent	As Needed	$26.34	$26.34
1 Inch Straight Meter Coupling	Ford	C38-44-2-NL (2" Length) or approved equivalent	As Needed up to 150 unites	$33.45	$33.45
Meter Box	Quazite	CDR Box 11"x18"x12" Straight Wall or approved equivalent	As Needed	$175.95	$175.95
Meter Lid	Quazite	CDR Cover 11"x18"x12" w/ 4"x6" CIR5t or approved equivalent	As Needed	$69.48	$69.48
				Base Bid Total	$1,619,790.72

Name of Bidder: National Metering Services, Inc.

Total Base Price: $1,619,790.72

CONTRACT PROVISIONS FOR FDEP FUNDED AGREEMENTS

The Project is being funded by the State of Florida Department of Environmental Protection ("FDEP") through FDEP Standard Grant Agreement No. 23LE1 ("FDEP Grant Agreement") with the Town of Fort Myers Beach, which requires that certain terms be incorporated into agreements funded thereby. These requirements are in addition to, and do not modify or reduce, any other requirement or obligation in the Agreement.

1. Public Entity Crimes. Pursuant to Section 287.133(3)(a), Florida Statutes: 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 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. Contractor represents that in entering into the Agreement, the Contractor has not been placed on the convicted vendor list within the last 36 months. If the Contractor is placed on the convicted vendor list during the term of this Agreement, the Contractor shall immediately notify the Town and shall be cause for unilateral cancellation of the Agreement.

2. Discriminatory Vendors. Pursuant to Section 287.134(3)(a), Florida Statutes: 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. Contractor represents that in entering into the Agreement, the Contractor has not been placed on the discriminatory vendor list within the last 36 months. If the Contractor is placed on the discriminatory vendor list during the term of this Agreement, the Contractor shall immediately notify the Town and shall be cause for unilateral cancellation of the Agreement.

3. Antitrust Violator Vendors. Pursuant to Section 287.137(3)(a), Florida Statutes: 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 on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any 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 leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity. Contractor represents that in entering into the Agreement, the Contractor has not been placed on the antitrust violator vendor list within the last 36 months. If the Contractor is placed on the antitrust violator vendor list during the term of this Agreement, the Contractor shall immediately notify the Town and shall be cause for unilateral cancellation of the Agreement.

4. Compliance with FDEP Security and Safety Requirements and Processes. Contractor and its employees, agents, and subcontractors shall comply with any security and safety requirements and processes, if provided by FDEP, for work done at the Project location.

5. Contractual Costs. Nonconsumable and/or nonexpendable personal property or equipment costing $5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapter 274, F.S., and Chapter 69I-73, F.A.C. Contractor shall be responsible for maintaining appropriate property records for this Agreement and any subcontracts that include the purchase of equipment as part of the delivery of services. Contractor shall comply with this requirement and ensure that this requirement is imposed upon any subcontractors under this Agreement in writing.

6. Statutory Notices Relating to Unauthorized Employment and Subcontracts. FDEP considers the employment by Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Agreement. Contractor shall include this provision in all contracts issued as a result of the Agreement.

7. Compliance with Federal, State and Local Laws. Contractor and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement. All employees, subcontractors, or agents performing work under the Agreement must comply with all security and administrative requirements of FDEP and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement. Contractor shall include this provision in all contracts issued as a result of the Agreement.

8. Record Keeping. Contractor shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. Contractor shall grant the FDEP, the State of Florida, or their authorized representatives access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. Contractor shall similarly require each of its subcontractors to maintain and allow access to such records for audit purposes.

9. Compliance with Section 20.055, Florida Statutes. the CONTRACTOR understands its duty, pursuant to section 20.055(5), F.S. to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. CONTRACTOR will comply with this duty and impose this requirement, in writing, on its subcontractors.

10. No Third-Party Rights in FDEP Grant Agreement. Contractor is advised that the FDEP Grant Agreement does not create any third-party rights, and no third parties shall rely upon any of the rights and obligations created under the FDEP Grant Agreement.

11. Insurance Requirements. At all times during the Agreement the Contractor, at its sole expense, shall maintain insurance coverage of such types and with such terms and minimum limits described below. Contractor understands and agrees that funds for the Project are conditioned upon their compliance with the insurance requirements of the Agreement. Failure to maintain the minimum insurance required herein shall be grounds for immediate termination of the Agreement. Contractor must provide proof of insurance upon request. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Contractor may provide coverage through a self-insurance program established and operating under the laws of Florida. The minimum insurance requirements applicable to this Agreement are set forth

below. However, if any other provision of the Agreement or bid documents requires insurance coverage in greater amounts or of broader scope, the greater requirements shall apply.

a. Commercial General Liability Insurance. The Contractor shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The "State of Florida Department of Environmental Protection, its employees and officers" shall be named as an additional insured on any general liability policies. The minimum limits shall be $ 250,000 for each occurrence and $500,000 policy aggregate.

b. Commercial Automobile Insurance. If the Contractor's duties include the use of a commercial vehicle, the Contractor shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The "State of Florida Department of Environmental Protection, its employees and officers" shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows: 200,000/300,000 Automobile Liability for Company-Owned Vehicles, if applicable 200,000/300,000 Hired and Non-owned Automobile Liability Coverage.

c. Workers' Compensation and Employer' s Liability Coverage. The Contractor shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of $100,000 per accident, $100,000 per person, and $500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Agreement.

d. Other Insurance. None.

13. Incorporation into Subcontracts. Contractor shall provide its subcontractors with a copy of this Exhibit, and the Contractor's obligations hereof shall be incorporated into each of Contractor's contracts with its subcontractor as obligations of the subcontractor. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth herein.

EXHIBIT D – FEDERAL SUPPLEMENTAL CONDITIONS

The supplemental conditions contained in this section are intended to cooperate with, to supplement, and to modify the general conditions and other specifications. In cases of disagreement with any other section of this contract, the Supplemental Conditions shall govern. This is an acknowledgement that FEMA financial assistance may be used to fund all or a portion of this contract.

Pursuant uniform requirements of federal awards (2 CFR Part 200.23) the definition of CONTRACTOR is an entity that receives a Contract / Purchase Order.

Compliance with Federal Law, Regulations and Executive Orders: The Sub-Recipient (Town) agrees to include in the subcontract that (i) the subcontractor is bound by the terms of the Federally- Funded Subaward and Grant Agreement, (ii) the subcontractor is bound by all applicable state and Federal laws and regulations, and (iii) the subcontractor shall hold the Division and Sub-Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

Specifically, the Contractor shall be responsible for being knowledgeable and performing any and all services under this contract in accordance with the following governing regulations along with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

- 2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 44 C.F.R. Part 206
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities
- FEMA Public Assistance Program and Policy Guide

Access to Records: The contractor agrees to provide the Town, the Florida Department of Emergency Management, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representative's access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract. (4) In compliance with section 1225 of the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Affirmative Socioeconomic Steps If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Changes: To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allowable, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.

DHS Seal, Logo, and Flags: The contractor shall not use the DHS seal(s), logos, crests, or reproductions

of flags or likenesses of DHS agency officials without specific FEMA pre- approval. The contractor shall include this provision in any subcontracts.

Domestic Preference for Procurements 200.322 As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

For purposes of this section: ''Produced in the United States'' means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. ''Manufactured products'' means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

License and Delivery of Works Subject to Copyright and Data Rights: The Contractor grants to the Town, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Town.

No Obligation by Federal Government: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.**Prohibition on Covered Telecommunications Equipment or Services**
(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds forcovered Telecommunications Equipment or Services As used in this clause –

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing — (i). A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii). Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to: (i). Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii). Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer

number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph(e), in all subcontracts and other contractual instruments.

Program Fraud and False or Fraudulent Statements or Related Acts: The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Rights to Inventions Made Under a Contract or Agreement: Exempt from FEMA Public Assistance Funding

Suspension and Debarment: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. (3) This certification is a material representation of fact relied upon by the Town. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Procurement of Recovered Materials (§200.323) (Over $10,000): In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired— Competitively within a timeframe providing for compliance with the contract performance schedule; Meeting contract performance requirements; or At a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Termination for Cause and Convenience (over $10,000): See Standard Purchase Order and/or Contract Terms and Conditions

Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended) (over $100,000): Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

Contractors must sign and submit a certification to the Town with each bid or offer exceeding $100,000. See Certifications and Assurances and the end of this document.

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) (over $100,000): Where applicable, all contracts awarded by the solicitor in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Town or FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

For contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1
"Further Compliance with the Contract Work Hours and Safety Standards Act.

(2) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
(3) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Clean Air Act (over $150,000): 1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act (over $150,000): 1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 2. The contractor agrees to report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

Administrative, Contractual, or Legal Remedies (over $250,000): Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the contractor, arising out of or relating to this contract, or the breach of it, will be decided by arbitration, if the parties mutually agree, or in a Florida court of competent jurisdiction.

(4) **CONSTRUCTION ACTIVITIES**

Equal Employment Opportunity Clause (§60-1.4): Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor

FEDERAL CONTRACT PROVISIONS AND

union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part an the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Davis Bacon Act: Exempt under FEMA Public Assistance Funding

Copeland Anti-Kickback Act: Exempt under FEMA Public Assistance Funding

STATE OF FLORIDA PROVISIONS
DEPARTMENT OF ENVIRONMENTAL
PROTECTION
BEACH MANAGEMENT FUNDING ASSITANCE PROGRAM

Applicable Laws - The Town and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Town shall include this provision in all contracts issued.

Data Collection: The Project shall be conducted in accordance with the terms and conditions set forth under this Agreement, all applicable Department permits and the eligible Project task items established below. All data collection and processing, and the resulting product deliverables, shall comply with the standards and technical specifications contained in the Department's Monitoring Standards for Beach Erosion Control Projects (2014) and all associated state and federal permits, unless otherwise specified in the approved scope of work for an eligible Project item. The monitoring standards may be found at: Project Monitoring (floridadep.gov)

In order to comply with Florida Auditor General report 2014-064 regarding conflicts of interest and to be consistent with Section 287.057(I7)(a)(I), F.S., **all monitoring data and statistical analysis must be provided directly and concurrently from the monitoring contractor to the Florida Department of Environmental Protection/Town/permittee/engineering consultant**. The Town's engineering

FEDERAL CONTRACT PROVISIONS AND

consultant must provide an adequate mitigation plan, consistent with Section 287.057(17)(a)(l), F.S., including a description of organizational, physical, and electronic barriers to be used by the Town's engineering consultant, that addresses conflicts of interest when contracting multi-disciplinary firms for Project engineering and post-construction environmental monitoring services, or when the Project engineering consultant firm subcontracts for post-construction environmental monitoring. Environmental monitoring includes hardbottom, seagrass, and mangrove resources.

Equal Employment Opportunity: No person on the ground of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of, otherwise subjected to discrimination.

Inspector General Cooperation: The Parties agree to comply with Section 20.055(5), Florida Statutes, for the inspector general to have access to any records, data and other information deemed necessary to carry out his or her duties and incorporate into all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

Lobbying: No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch or a state agency.

Local Preference: Pursuant to Section 255.0991, F.S. local vendor preference is not applicable

Physical Access and Inspection: Grantor personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:

i. The Town shall provide access to any location or facility on which Town is performing work, or storing or staging equipment, materials or documents.

ii. TheTown shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,

iii. The Town shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.

Record Retention: A. The contractor shall maintain and retain sufficient records demonstrating its compliance with the terms of the Agreement for a period of at least five (5) years after final payment is

FEDERAL CONTRACT PROVISIONS AND

made and shall allow the Town, the State, or its authorized representatives access to such records for audit purposes upon request.

Statutory Notices Relating to Unauthorized Employment: The Town shall consider the employment by any Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement

Statutory Notices Relating to Subcontracts: Pursuant to Sections 287.133 and 287.134, F.S., the following restrictions apply to persons placed on the convicted vendor list or the discriminatory vendor list:

i. **Public Entity Crime.** 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 Grantee, 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 Section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

ii. **Discriminatory Vendors**. 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.

iii. **Notification**. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list or the discriminatory vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and posts the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

FEDERAL CONTRACT PROVISIONS AND

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY and VOLUNTARY EXCLUSION

Contractor Covered Transactions

(1) The prospective subcontractor of the Sub-recipient, Town, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the Sub-recipient's subcontractor is unable to certify to the above statement, the prospective contract shall attach an explanation to this form.

CONTRACTOR

National Metering Services, Inc.

By: John Castle
Signature

John Castle, General Manager
Name and Title

235 Hatteras Ave
Street Address

Clermont, FL, 34711
City, State, Zip

22-3392696
UEI Unique Entity Identifier (for SAM.gov verification)

10/14/2025
Date

Sub-Recipient Name: Town of Fort Myers Beach

DEM Contract Number: TBD

FEMA Project Number: TBD

FEDERAL CONTRACT PROVISIONS AND ASSURANCES

TOWN OF FORT MYERS BEACH

ANTICIPATED DISADVANTAGED, MINORITY, WOMEN OR VETERAN PARTICIPATION STATEMENT

Status will be verified. Unverifiable statuses will require the PRIME to either provide a revised statement or provide source documentation that validates a status.

A. PRIME VENDOR/CONTRACTOR INFORMATION

PRIME NAME	PRIME FED NUMBER	CONTRACT DOLLAR AMOUNT
National Metering Services, Inc.	22-3392696	$1,619,790.72

IS THE PRIME A FLORIDA-CERTIFIED DISADVANTAGED, MINORITY OR WOMEN BUSINESS ENTERPRISE? (DBE/MBE/WBE) OR HAVE A SMALL DISADVANTAGED BUSINESS 8A CERTIFICATION FROM THE SMALL BUSINESS ADMINISTRATION? A SERVICE DISABLED VETERAN?

VETERAN Y (N)
DBE? Y (N)
MBE? Y (N)
WBE? Y (N)
SDB 8A? Y (N)

IS THE ACTIVITY OF THIS CONTRACT...

CONSTRUCTION ? (Y) N
CONSULTATION? Y (N)
OTHER? Y (N)

IS THIS SUBMISSION A REVISION? Y (N) IF YES, REVISION NUMBER_____

B. IF PRIME HAS SUBCONTRACTOR OR SUPPLIER WHO IS A DISADVANTAGED MINORITY, WOMEN-OWNED, SMALL BUSINESS CONCERN OR SERVICE DISABLED VETERAN, PRIME IS TO COMPLETE THIS NEXT SECTION

DBE M/WBE VETERAN	SUBCONTRACTOR OR SUPPLIER NAME	TYPE OF WORK OR SPECIALTY	ETHNICITY CODE (See Below)	SUB/SUPPLIER DOLLAR AMOUNT	PERCENT OF CONTRACT DOLLARS
			TOTALS		

C. SECTION TO BE COMPLETED BY PRIME VENDOR/CONTRACTOR

NAME OF SUBMITTER	DATE	TITLE OF SUBMITTER
John Castle	10/14/2025	General Manager
EMAIL ADDRESS OF PRIME (SUBMITTER)	**TELEPHONE NUMBER**	**FAX NUMBER**
jcastle@nmsnj.com	201-456-0218	201-246-1831

NOTE: This information is used to track and report anticipated DBE or MBE participation in federally-funded contracts. The anticipated DBE or MBE amount is voluntary and will not become part of the contractual terms. This form must be submitted at time of response to a solicitation. If and when awarded a County contract, the prime will be asked to update the information for the grant compliance files.

ETHNICITY	CODE
Black American	BA
Hispanic American	HA
Native American	NA
Subcont. Asian American	SAA
Asian-Pacific American	APA
Non-Minority Women	NMW
Other not of any other group listed	O

D. SECTION TO BE COMPLETED BY TOWN OF FORT MYERS BEACH

DEPARTMENT NAME	FMB CONTRACT # (IFB/RFP or PO/REQ)	GRANT PROGRAM/CONTRACT

ACCEPTED BY:	DATE

Agreement Number: D1502

STATE-FUNDED LAP GRANT AGREEMENT

THIS AGREEMENT is entered into by the State of Florida, Division of Emergency Management, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Division"), and **Town of Fort Myers Beach**, Florida (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

A. The Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein; and

B. The Division has received these grant funds from the State of Florida, and has the authority to subgrant these funds to the Recipient upon the terms and conditions below; and

C. The Division has statutory authority to disburse the funds under this Agreement.

THEREFORE, the Division and the Recipient agree to the following:

(1) LAWS, RULES, REGULATIONS, AND POLICIES

a. As required by section 215.971(1), Florida Statutes, this Agreement includes:

i. A provision specifying a scope of work that clearly establishes the tasks that the Recipient is required to perform.

ii. A provision dividing the agreement into quantifiable units of deliverables that must be received and accepted in writing by the Division before payment. Each deliverable must be directly related to the scope of work and specify the required minimum level of service to be performed and the criteria for evaluating the successful completion of each deliverable.

iii. A provision specifying the financial consequences that apply if the Recipient fails to perform the minimum level of service required by the agreement.

iv. A provision specifying that the Recipient may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period.

v. A provision specifying that any balance of unobligated funds which has been advanced or paid must be refunded to the Division.

vi. A provision specifying that any funds paid in excess of the amount to which the Recipient is entitled under the terms and conditions of the agreement must be refunded to the Division.

b. In addition to the foregoing, the Recipient and the Division shall be governed by all applicable State and Federal laws, rules and regulations, including those identified in Attachment B. Any express reference in this Agreement to a particular statute, rule, or regulation in no way implies that no other statute, rule, or regulation applies.

(2) CONTACT

a. In accordance with section 215.971(2), Florida Statutes, the Division's Grant Manager shall be responsible for enforcing performance of this Agreement's terms and conditions and shall serve as the Division's liaison with the Recipient. As part of his/her duties, the Grant Manager for the Division shall:

i. Monitor and document Recipient performance; and,

ii. Review and document all deliverables for which the Recipient requests payment.

b. The Division's Grant Manager for this Agreement is:

Berenice Hernandez Avila
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399
Telephone: 850-815-4206
Email: Berenice.Hernandez@em.myflorida.com

c. The name and address of the representative of the Recipient responsible for the administration of this Agreement is:

Cheri Russ
2525 Estero Boulevard
Fort Myers Beach, FL 33931
Telephone: 239-765-0202
Email: cheri.russ@fmbgov.com

d. In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be provided to the other party.

(3) TERMS AND CONDITIONS

This Agreement contains all the terms and conditions agreed upon by the parties.

(4) EXECUTION

This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(5) MODIFICATION

Either party may request modification of the provisions of this Agreement. Changes which are agreed upon shall be valid only when in writing, signed by each of the parties, and attached to the original of this Agreement.

(6) SCOPE OF WORK

The Recipient shall perform the work in accordance with the Budget and Scope of Work, Attachment A of this Agreement.

(7) PERIOD OF AGREEMENT

This Agreement shall begin upon execution by both parties and shall end on **March 31, 2026** unless terminated earlier in accordance with the provisions of Paragraph (16) TERMINATION. In accordance with section 215.971(1)(d), Florida Statutes, the Recipient may expend funds authorized by this Agreement "only for allowable costs resulting from obligations incurred during" the period of agreement.

(8) FUNDING

a. This is a one-time grant Agreement, subject to the availability of legislatively appropriated funds.

b. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with either chapter 216, Florida Statutes, or the Florida Constitution.

c. The Division will grant funds to the Recipient only for allowable costs that will be incurred by the Recipient in the successful completion of each deliverable or for loss of revenue.

d. The Division will review any request for grant funding by comparing the documentation provided by the Recipient against a performance measure, outlined in Attachment A, which clearly delineates:

i. The required minimum acceptable level of service to be performed; and,

ii. The criteria for evaluating the successful completion of each deliverable.

e. The Division's Grant Manager, as required by section 215.971(2)(c), Florida Statutes, shall reconcile and verify all funds received against all funds expended during the period of agreement and produce a final reconciliation report. The final report must identify any funds paid in excess of the expenditures incurred by the Recipient.

f. For the purposes of this Agreement, the term "improper payment" means or includes:

i. Any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and,

ii. Any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

g. All funds shall be placed in an interest-bearing account and the interest shall be returned to the Division quarterly until the completion of all deliverables. The interest shall be returned to the Division's General Revenue Fund.

(9) RECORDS

a. As a condition of receiving state financial assistance, and as required by sections 20.055(6)(c) and 215.97(5)(b), Florida Statutes, the Division, the Chief Inspector General of the State of Florida, the Florida Auditor General, or any of their authorized representatives, shall enjoy the right of access to any documents, financial statements, papers, or other records of the Recipient which are pertinent to this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Recipient's personnel for the purpose of interview and discussion related to such documents. For the purposes of this section, the term "Recipient" includes employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement.

b. The Recipient shall maintain all records related to this Agreement for the period of time specified in the appropriate retention schedule published by the Florida Department of State. Information regarding retention schedules can be obtained at: http://dos.myflorida.com/library-archives/records-management/general-records-schedules/.

c. Florida's Government in the Sunshine Law (Section 286.011, Florida Statutes) provides the citizens of Florida with a right of access to governmental proceedings and mandates three, basic requirements: (1) all meetings of public boards or commissions must be open to the public; (2) reasonable notice of such meetings must be given; and (3) minutes of the meetings must be taken and promptly recorded. The mere receipt of public funds by a private entity, standing alone, is insufficient to bring that entity within the ambit of the open government requirements. However, the Government in the Sunshine Law applies to private entities that provide services to governmental agencies and that act on behalf of those agencies in the agencies' performance of their public duties. If a public agency delegates the performance of its public purpose to a private entity, then, to the extent that private entity is performing that public purpose, the Government in the Sunshine Law applies. For example, if a volunteer fire department provides firefighting services to a governmental entity and uses facilities and equipment purchased with public funds, then the Government in the Sunshine Law applies to board of directors for that volunteer fire department. Thus, to the extent that the Government in the Sunshine Law applies to the Recipient based upon the funds provided under this Agreement, the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board may be subject to open government requirements. These meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records, available to the public in accordance with chapter 119, Florida Statutes.

d. Florida's Public Records Law provides a right of access to the records of the state and local governments as well as to private entities acting on their behalf. Unless specifically exempted from disclosure by the Legislature, all materials made or received by a governmental agency (or a private entity acting on behalf of such an agency) in conjunction with official business which are used to

perpetuate, communicate, or formalize knowledge qualify as public records subject to public inspection. The mere receipt of public funds by a private entity, standing alone, is insufficient to bring that entity within the ambit of the public record requirements. However, when a public entity delegates a public function to a private entity, the records generated by the private entity's performance of that duty become public records. Thus, the nature and scope of the services provided by a private entity determine whether that entity is acting on behalf of a public agency and is therefore subject to the requirements of Florida's Public Records Law.

e. The Recipient shall maintain all records for the Recipient and for all subcontractors or consultants to be paid from funds provided under this Agreement, including documentation of all program costs, in a form sufficient to determine compliance with the requirements and objectives of the Budget and Scope of Work - Attachment A - and all other applicable laws and regulations.

IF THE RECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE RECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (850) 815-4156, Records@em.myflorida.com, or 2555 Shumard Oak Boulevard, Tallahassee, FL 32399.

(10) AUDITS

a. In accounting for the receipt and expenditure of funds under this Agreement, the Recipient shall follow Generally Accepted Accounting Principles ("GAAP"). As defined by 2 C.F.R. §200.49, GAAP "has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB)."

b. When conducting an audit of the Recipient's performance under this Agreement, the Division shall use Generally Accepted Government Auditing Standards ("GAGAS"). As defined by 2 C.F.R. §200.50, GAGAS, "also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits."

c. If an audit shows that all or any portion of the funds disbursed were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Division of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the Division has notified the Recipient of such non-compliance.

d. The Recipient shall have all audits completed by an independent auditor, which is defined in section 215.97(2)(i), Florida Statutes, as "an independent certified public accountant licensed

under chapter 473." The independent auditor shall state that the audit complied with the applicable provisions noted above. The audits must be received by the Division no later than nine (9) months from the end of the Recipient's fiscal year.

e. The Recipient shall send copies of reporting packages required under this paragraph directly to each of the following:

i. The Division of Emergency Management
DEMSingle_Audit@em.myflorida.com
DEMSingle_Audit@em.myflorida.com
OR
Office of the Inspector General
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

ii. The Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

(11) REPORTS

a. The Recipient shall provide the Division with quarterly reports and a close-out report. These reports shall include the current status and progress by the Recipient and all Sub-Recipients and subcontractors in completing the work described in the Scope of Work and the expenditure of funds under this Agreement, in addition to any other information requested by the Division.

b. Quarterly reports are due to the Division no later than thirty (30) days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are March 31, June 30, September 30, and December 31.

c. The close-out report is due sixty (60) days after termination of this Agreement or sixty (60) days after completion of the activities contained in this Agreement, whichever occurs first.

d. If all required reports and copies are not sent to the Division or are not completed in a manner acceptable to the Division, the Division may withhold further payments or FEMA Public Assistance funds until they are completed or may take other action as stated in Paragraph (15) REMEDIES. "Acceptable to the Division" means that the work product was completed in accordance with the Budget and Scope of Work.

e. The Recipient shall provide additional program updates or information that may be required by the Division.

f. The Recipient shall obtain engineering inspection reports for any new construction or installation. The Recipient shall furnish the reports to the Division within fifteen (15) days of receipt of the completed report.

(12) MONITORING

a. The Recipient shall monitor its performance under this Agreement, as well as that of its subcontractors and/or consultants who are paid from funds provided under this Agreement, to ensure that time schedules are being met, the Schedule of Deliverables and Scope of Work are being accomplished within the specified time periods, and other performance goals are being achieved. A review shall be done for each function or activity in Attachment A to this Agreement and reported in the quarterly report.

b. In addition to reviews of audits conducted in accordance with paragraph (10) AUDITS above, monitoring procedures may include, but not be limited to, on-site visits by Division staff, limited scope audits, or other procedures. The Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Division. In the event that the Division determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the Division to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Florida Chief Financial Officer or Auditor General. In addition, the Division will monitor the performance and financial management by the Recipient throughout the period of agreement to ensure timely completion of all tasks.

(13) LIABILITY

a. Unless Recipient is a state agency or subdivision, as defined in section 768.28, Florida Statutes, the Recipient is solely responsible to parties it deals with in carrying out the terms of this Agreement and shall hold the Division harmless against all claims of whatever nature by third parties arising from the work performed under this Agreement. For purposes of this Agreement, Recipient agrees that it is not an employee or agent of the Division but is an independent contractor.

b. Any Recipient which is a state agency or subdivision, as defined in section 768.28, Florida Statutes, agrees to be fully responsible for its negligent or tortious acts or omissions which result in claims or suits against the Division, and agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in section 768.28, Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of this agreement.

(14) DEFAULT

If any of the following events occur ("Events of Default"), all obligations on the part of the Division to make further payment of funds shall, if the Division elects, terminate and the Division has the option to exercise any of its remedies set forth in Paragraph (15) REMEDIES. However, the Division may make

payments or partial payments, if applicable, after any Events of Default without waiving the right to exercise such remedies, and without becoming liable to make any further payment:

a. If any warranty or representation made by the Recipient in this Agreement or any previous agreement with the Division is or becomes false or misleading in any respect, or if the Recipient fails to keep or perform any of the obligations, terms or covenants in this Agreement or any previous agreement with the Division and has not cured them in timely fashion, or is unable or unwilling to meet its obligations under this Agreement;

b. If material adverse changes occur in the financial condition of the Recipient at any time during the period of agreement, and the Recipient fails to cure this adverse change within thirty (30) days from the date written notice is sent by the Division.

c. If any reports required by this Agreement have not been submitted to the Division or have been submitted with incorrect, incomplete or insufficient information;

d. If the Recipient has failed to perform and complete on time any of its obligations under this Agreement.

(15) REMEDIES

If an Event of Default occurs, then the Division shall, after thirty (30) calendar days written notice to the Recipient and upon the Recipient's failure to cure within those thirty (30) days, exercise any one or more of the following remedies, either concurrently or consecutively:

a. Terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice of the termination. The notice shall be effective when placed in the United States, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address in paragraph (2) CONTACT herein;

b. Begin an appropriate legal or equitable action to enforce performance of this Agreement;

c. Withhold or suspend payment of all or any part of a request for payment;

d. Require that the Recipient refund to the Division any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.

e. Exercise any corrective or remedial actions, to include but not be limited to:

i. request additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance,

ii. issue a written warning to advise that more serious measures may be taken if the situation is not corrected,

iii. advise the Recipient to suspend, discontinue or refrain from incurring costs for any activities in question or

iv. require the Recipient to reimburse the Division for the amount of costs incurred for any items determined to be ineligible;

f. Exercise any other rights or remedies which may be available under law.

Pursuing any of the above remedies will not stop the Division from pursuing any other remedies in this Agreement or provided at law or in equity. If the Division waives any right or remedy in this Agreement or fails to insist on strict performance by the Recipient, it will not affect, extend or waive any other right or remedy of the Division, or affect the later exercise of the same right or remedy by the Division for any other default by the Recipient.

(16) TERMINATION.

a. The Division may terminate this Agreement for cause after thirty (30) days written notice. Cause can include misuse of funds, fraud, lack of compliance with applicable rules, laws and regulations, failure to perform on time, and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under chapter 119, Florida Statutes., as amended.

b. The Division may terminate this Agreement for convenience or when it determines, in its sole discretion, that continuing the Agreement would not produce beneficial results in line with the further expenditure of funds, by providing the Recipient with thirty (30) calendar days prior written notice.

c. The parties may agree to terminate this Agreement for their mutual convenience through a written amendment of this Agreement. The amendment will state the effective date of the termination and the procedures for proper closeout of this Agreement.

d. In the event this Agreement is terminated, the Recipient will not incur new obligations for the terminated portion of this Agreement after the Recipient has received the notification of termination. The Recipient will cancel as many outstanding obligations as possible. Costs incurred after receipt of the termination notice will be disallowed. The Recipient shall not be relieved of liability to the Division because of any breach of this Agreement by the Recipient. The Division may, to the extent authorized by law, withhold payments to the Recipient for the purpose of set-off until the exact amount of damages due the Division from the Recipient is determined.

(17) SUBCONTRACTS

If the Recipient subcontracts any of the work required under this Agreement, a copy of the unsigned subcontract must be forwarded to the Division for review and approval before it is executed by the Recipient. The Recipient agrees to include in the subcontract that (i) the subcontractor is bound by the terms of this Agreement, (ii) the subcontractor is bound by all applicable state and federal laws and regulations, and (iii) the subcontractor shall hold the Division and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law. The Recipient shall document in the quarterly report the subcontractor's progress in performing its work under this Agreement.

For each subcontract, the Recipient shall provide a written statement to the Division as to whether that subcontractor is a minority business enterprise, as defined in section 288.703, Florida Statutes..

(18) ATTACHMENTS

a. All attachments to this Agreement are incorporated as if set out fully.

b. In the event of any inconsistencies or conflict between the language of this Agreement and the attachments, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

c. This Agreement has the following attachments:

Exhibit 1 - Funding Sources
Attachment A – Proposed Budget and Scope of Work
Attachment B – Program Statutes and Regulations
Attachment C – Statement of Assurances
Attachment D – Warranties and Representations
Attachment E – Certification Regarding Debarment
Attachment F – Foreign Country of Concern Affidavit

(19) PAYMENTS

a. Invoices shall be submitted at least quarterly and shall include the supporting documentation for all costs of the project or services. The final invoice shall be submitted within sixty (60) days after the expiration date of the agreement. An explanation of any circumstances prohibiting the submittal of quarterly invoices shall be submitted to the Division grant manager as part of the Recipient's quarterly reporting as referenced in paragraph (11) REPORTS of this Agreement.

b. If the Recipient is a county or municipality that is a rural community or rural area of opportunity as those terms are defined in section 288.0656(2), Florida Statutes, the Division may issue payment of submitted invoices for verified and eligible performance that has been completed in accordance with the terms and conditions set forth in this Agreement to the extent that federal or state law, rule, or other regulation allows such payments. The Recipient may elect in writing to exercise this provision as long as the Recipient is a county or municipality which is a rural community or rural area of opportunity, as defined in section 288.0656(2), Florida Statutes, and demonstrates financial hardship. A county or municipality located within a financially constrained county, as defined in section 288.67(1), Florida Statutes, is deemed to have demonstrated a financial hardship for the purposes of this provision.

c. If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the federal Office of Management and Budgeting, the State Chief Financial Officer or under paragraph 8 of this Agreement, all obligations on the part of the Division to make any further payment of funds shall terminate, and the Recipient shall submit its closeout report within thirty (30) days of completion of the last deliverable.

(20) REPAYMENTS

All refunds, repayments, or interest due to the Division under this Agreement are to be made payable to the order of "Division of Emergency Management," and mailed directly to the following address:

Division of Emergency Management
Cashier
2555 Shumard Oak Boulevard
Tallahassee FL 32399-2100

In accordance with section 215.34(2), Florida Statutes, if a check or other draft is returned to the Division for collection, Recipient shall pay the Division a service fee of $15.00 or 5% of the face amount of the returned check or draft, whichever is greater.

(21) MANDATED CONDITIONS

a. The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any later submission or response to a Division request, or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations, and materials is incorporated by reference. The inaccuracy of the submissions or any material changes shall, at the option of the Division and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Division from all its obligations to the Recipient.

b. This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then the provision shall be null and void to the extent of the conflict, and shall be severable, but shall not invalidate any other provision of this Agreement.

c. Any power of approval or disapproval granted to the Division under the terms of this Agreement shall survive the term of this Agreement.

d. This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

e. The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.

f. Those who have been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids 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 a public entity, and may not transact business with any public entity in excess of $25,000.00 for a period of thirty-six (36) months from the date of being placed on the convicted vendor list or on the discriminatory vendor list.

g. Any Recipient which is not a local government or state agency, and which receives funds under this Agreement from the state government, certifies, to the best of its knowledge and belief, that it and its principals:

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency;

ii. Have not, within a five-year period preceding this Agreement been convicted of or had a civil judgment rendered against it for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

iii. Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offenses enumerated in paragraph (21)(g)(ii) of this certification; and

iv. Have not within a five-year period preceding this Agreement had one or more public transactions (federal, state or local) terminated for cause or default.

If the Recipient is unable to certify to any of the statements in this certification, then the Recipient shall attach an explanation to this Agreement.

In addition, the Recipient shall send to the Division (by email or by facsimile transmission) the completed "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" (Attachment E) for each intended subcontractor that Recipient plans to fund under this Agreement. The form must be received by the Division before the Recipient enters into a contract with any subcontractor.

h. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature, and subject to any modification in accordance with Chapter 216, Florida Statutes, or the Florida Constitution.

i. All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

j. Use of grant funds for travel is not authorized.

k. The Division reserves the right to unilaterally cancel this Agreement if the Recipient refuses to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, which the Recipient created or received under this Agreement.

l. If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to the Division or be applied against the Division's obligation to pay the contract amount.

m. The State of Florida will not intentionally award publicly funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Division shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Division.

n. The Recipient is subject to Florida's Government in the Sunshine Law (Section 286.011, Florida Statutes) with respect to the meetings of the Recipient's governing board or the meetings of any subcommittee making recommendations to the governing board. All of these meetings shall be publicly noticed, open to the public, and the minutes of all the meetings shall be public records, available to the public in accordance with chapter 119, Florida Statutes.

o. All expenditures of state financial assistance shall be in compliance with the laws, rules and regulations applicable to expenditures of State funds, including but not limited to, the Reference Guide for State Expenditures.

p. This Agreement may be charged only with allowable costs resulting from obligations that will be incurred during the period of agreement.

q. Any balances of unobligated cash that have been advanced or paid that are not authorized to be retained for direct program costs in a subsequent period must be refunded to the State.

r. Section 287.05805, Florida Statutes, requires that any state funds provided for the purchase of or improvements to real property are contingent upon the contractor or political subdivision granting to the state a security interest in the property at least to the amount of state funds provided for at least five (5) years from the date of purchase or the completion of the improvements or as further required by law.

s. The Division may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), Florida Statutes., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

t. The Recipient shall attest in Attachment F of this agreement, it is not an entity owned by the government of a Foreign Country of Concern, no government of a Foreign Country of Concern has a controlling interest in the entity, and the entity has not been organized under the laws of or has its principal place of business in a Foreign Country of Concern pursuant to Section 287.138, Florida Statutes.

(22) LOBBYING PROHIBITION

a. Section 216.347, Florida Statutes, prohibits "any disbursement of grants and aids appropriations pursuant to a contract or grant to any person or organization unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying the Legislature, the judicial branch, or a state agency."

b. No funds or other resources received from the Division under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(23) COPYRIGHT, PATENT AND TRADEMARK

EXCEPT AS PROVIDED BELOW, ANY AND ALL PATENT RIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY RESERVED TO THE STATE OF FLORIDA. ANY AND ALL COPYRIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY TRANSFERRED BY THE RECIPIENT TO THE STATE OF FLORIDA.

a. If the Recipient has a pre-existing patent or copyright, the Recipient shall retain all rights and entitlements to that pre-existing patent or copyright unless this Agreement provides otherwise.

b. If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement, or in any way connected with it, the Recipient shall refer the discovery or invention to the Division for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films, or other copyrightable material are produced, the Recipient shall notify the Division. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Recipient to the State of Florida.

c. Within thirty (30) days of execution of this Agreement, the Recipient shall disclose all intellectual properties relating to the performance of this Agreement that he or she knows or should know could give rise to a patent or copyright. The Recipient shall retain all rights and entitlements to any pre-existing intellectual property that is disclosed. Failure to disclose will indicate that no such property exists. The Division shall then, under Paragraph (b), have the right to all patents and copyrights that accrue during performance of this Agreement.

d. If the Recipient qualifies as a state university under Florida law, then, pursuant to section 1004.23, Florida Statutes, any invention conceived exclusively by the employees of the Recipient shall become the sole property of the Recipient. In the case of joint inventions, that is inventions made jointly by one or more employees of both parties hereto, each party shall have an equal, undivided interest in and to such joint inventions. The Division shall retain a perpetual, irrevocable, fully paid, nonexclusive license, for its use and the use of its contractors of any resulting patented, copyrighted or trademarked

work products, developed solely by the Recipient, under this Agreement, for Florida government purposes.

(24) LEGAL AUTHORIZATION.

The Recipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. The Recipient also certifies that the undersigned person has the authority to legally execute and bind Recipient to the terms of this Agreement.

(25) ASSURANCES.

The Recipient shall comply with any Statement of Assurances incorporated as Attachment C.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

RECIPIENT: Town of Fort Myers Beach, Florida

By: Dan Allers

Name and Title: Dan Allers Mayor

Date: 1/31/2024

FID# 65-0632342

STATE OF FLORIDA
DIVISION OF EMERGENCY MANAGEMENT

By: Ian Guidicelli

Name and Title: **Kevin Guthrie, Director, or Ian Guidicelli, Response Bureau Chief, as Authorized Representative.**

Date: 3/5/2024

EXHIBIT – 1

STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO S SB 2500 (2023), ITEM 2676A:

State Project -

State awarding agency **Florida Division of Emergency Management**

Amount of State Funding: **$350,000,000**

2676A LUMP SUM
HURRICANE RECOVERY GRANT PROGRAM
FROM GENERAL REVENUE FUND 350,000,000

Funds in Specific Appropriation 2676A are provided for hurricane repair and recovery related to projects within counties designated in the Federal Emergency Management Agency disaster declarations for Hurricanes Ian and Nicole. The Executive Office of the Governor, Division of Emergency Management is authorized to request budget amendments up to $350,000,000 requesting release of funds pursuant to chapter 216, Florida Statutes, to provide resources to fund gaps in: mitigation of local and county revenue losses and operating deficits; infrastructure repair and replacement, including road, sewer, and water facilities; beach renourishment; and debris removal. The division is authorized to approve requests for resources by local governments, independent special districts, and school boards, including charter schools. A local government may submit a request for resources to administer infrastructure repair or beach renourishment grants within the jurisdiction of the local government, provided that the grant program requires matching funds by grantees of at least 50 percent of project costs. Requests for the release of funds shall include certification that includes, but is not limited to:

1. That funding requested by the local government, independent special district, and school board, including a charter school, is necessary to maintain services or infrastructure essential to support health, safety, and welfare functions, and to reimburse the local government, independent special district, school board, or charter school for unanticipated expenses related to responding to Hurricane Ian or Nicole or for the loss of revenues related to the impact of Hurricane Ian or Nicole.

2. That insufficient state funds, federal funds, private funds, or insurance proceeds are available and that should sufficient funds subsequently become available to meet the need of the original budget amendment, the local government or entity has agreed to reimburse the state in the amount of such funds subsequently received.

The division shall coordinate with other state agencies and the local government or entity to ensure there is no duplication of benefits between these funds and other funding sources such as insurance proceeds and any other federal or state programs, including Public Assistance requests to the Federal Emergency Management Agency and Community Development Block Grant Disaster Recovery grants. Requests approved by the division for funding that are for projects ineligible for any other funding sources, whether federal or state programs, may be provided as grants. Requests approved by the division for funding that are for projects that are eligible for other funding sources shall be provided as loans which shall be repaid up to the amount of funds subsequently received. Any funds reimbursed to the state shall be deposited in the General Revenue Fund.

16

ATTACHMENT A

Proposed Budget and Scope of Work

I. PROPOSED BUDGET

Project	Anticipated Expenditure Amount
Beach Renourishment	$8,000,000.00
Legislative Appropriation Funds	$8,000,000.00
Total Expenditures	$8,000,000.00

II. BACKGROUND

As documented by the Hurricane Ian and Nicole Grant Recovery Program, $350 million dollars were appropriated to help local governments mitigate local and county revenue losses and operating deficits; make infrastructure repairs and replacements including road and sewer and water facilities; conduct beach nourishment; and complete debris removal. Funding can be requested by local governments, independent special districts, and school boards, including charter schools.

The Town of Fort Myers Beach sustained significant damage to their beaches due to major Hurricane Ian. The Town of Fort Myers Beach is awarded a one-time advance payment of $8,000,000 for their Beach Renourishment Project excluding Cat-G project areas. They will place and grade beach compatible sand along the central and south segments of Estero Island which was lost due to major Hurricane Ian.

Below is the project that will be funded under this funding agreement:

Beach Renourishment:
The Town of Fort Myers Beach seeks to contract with a qualified contractor to purchase, transport, place, and grade beach compatible sand along segments of Estero Island, Fort Myers Beach, FL. The Town of Fort Myers Beach will contract professional services for the design, engineering, monitoring, environmental and willing costs associated with the beach renourishment. Funds will be used to dredge sand to place on beach for beach restoration for damage caused by major Hurricane Ian. Additionally, a dune will be built along the central and south segments of Estero Island where the FEMA Cat-B project Emergency Berm was created from 182S-210. The Town also experienced additional sand loss due to major Hurricane Ian along Estero Island, the mitigation work consists of filling in scour holes and filling in beach public access areas that got eroded out. Cat-G project areas will not be funded under this agreement.

III. SCOPE OF WORK

A. Funds have been allocated to the Recipient for the Beach Renourishment Project on Estero Island, Florida. Funds shall be utilized in accordance with all local, state, and federal regulations.

B. Eligible costs include all eligible costs under State Department of Environmental Protection Agreement Number 23LE4 excluding Cat-G project areas. Eligible costs include engineering reports, permitting, inspections, required environmental studies, design and construction costs for beach management, the creation of sand dunes, filling scours, and dredging along Estero Island.

C. The project's measurable outcome is Estero Island Beach Restoration to satisfy Florida Department of Environmental Protection Agreement Number 23LE4 excluding Cat-G project areas.

D. The Recipient shall provide an initial timeline. Table SW-1, "Initial Timeline and Estimated Allocation Schedule" or other similar instrument as approved by the Division may be used.

IV. TASK PRODUCTS

A. Per Scope-of-Work Item III.D, Recipient shall prepare an initial timeline with key milestone activities/tasks schedule, including estimated start and end dates for each activity. Table SW-1 may be used to meet this deliverable.

B. The Recipient shall provide the Division with copies of before photographs to document site conditions, site work progress, and completed site work.

C. The Recipient shall provide the Division with the procurement documents, if the Recipient went out to bid for the projects listed and receipts for all purchases.

D. The Recipient shall provide the Division with copies of pertinent site work regulatory reviews and permits for all projects under this agreement.

E. The Recipient shall provide the Division with copies of all task products submitted to the Florida Department of Environmental Protection Agreement Number 23LE4.

F. The Recipient shall provide the Division with copies of bid-ready construction documents and specifications for review and comment by the Division as applicable for all projects under this agreement. The site work documents shall be signed by the applicable registered or licensed design professional(s) of record.

G. The Recipient shall provide the Division with copies of as-built documents for review by the Division as applicable for all projects under this agreement. The site work documents shall be signed by the applicable registered or licensed design professional(s) of record.

H. The Recipient shall provide a completion report. The completion report shall demonstrate that the project meets the requirements for the projects.

V. FINANCIAL CONSEQUENCES

If Recipient fails to comply with any term of the grant, the Division shall take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the recipient;
2. Disallow all or part of the cost of the activity or action not in compliance;
3. Withhold further funding; or,
4. Take other remedies that may be legally available.

VI. SCHEDULE OF WORK

A. No later than 30 days after the agreement's execution date, the Recipient shall provide the Division with Task Product IV.A for review and approval. Failure to supply the required documentation, or disapproval of this documentation by the Division, shall result in denial or reduction of funds at the sole discretion of the Division.

B. By April 30, 2024, and at least on a quarterly basis thereafter, Recipient shall report on progress in relation to the initial timeline and submit an invoice for work accomplished in accordance with the Division approved cost allocation table referenced in Task Product IV.A.

C. By mutually agreed upon date(s), the Recipient shall provide the Division with Task Products IV.B through F for review and approval. Failure to supply the required documentation, or disapproval of this documentation by the Division, shall result in denial or reduction of funds at the sole discretion of the Division.

D. By March 31, 2026, the Recipient shall provide a copy of the certificate of occupancy or completion or other appropriate written acceptance of completed work, or certification letter from the civil engineer showing that work meets specification of design, close-out documentation and final payment invoice.

Table SW-1. Initial Timeline and Estimated Allocation Schedule

Project Name(s):
Beach Renourishment

PROJECT PHASE	Start Date	End Date	LAP Funds (FY 2023-2024)
Board Contract Approval			
Architectural & Engineering Services Firm Selection			
Site Survey and Soil Testing			
Spatial Needs Assessment			
Preliminary Design, 100% complete			
Permits			
Regulatory Review			
Bid Document(s) Development & Award			
Notice to Proceed/Mobilization			
Construction Project Management & Special Inspections			
Construction 25% Complete			
Construction 50% Complete			
Construction 100% Complete			
Sub-Totals		$8,000,000	
TOTAL Estimated Project Cost			

A/E - Architectural and Engineering; DEM – Division of Emergency Management; FY - Fiscal Year

Attachment B
Program Statutes and Regulations

Section 215.422, Florida Statutes	Payments, warrants, and invoices; processing time limits; dispute limitation; agency or judicial branch compliance
Section 215.97, Florida Statutes	Florida Single Audit Act
Section 215.971, Florida Statutes	Agreements funded with federal and state assistance
Section 216.347, Florida Statutes	Disbursement of grant and aids appropriations for lobbying prohibited
Section 216.3475, Florida Statutes	Maximum rate of payment for services funded under General Appropriations Act or awarded on a noncompetitive basis
Section 287.056, Florida Statutes	Purchases from purchasing agreement and state term contract
Section 287.057, Florida Statutes	Procurement of commodities or contractual services
CFO MEMORANDUM NO. 04 (2005-06)	Compliance Requirements for Agreements
Section 553.844, Florida Statutes	Requirements for Roofs and Opening Protection
SB 2500 (2023), ITEM 2676A	Requirements for Hurricane Recovery Grant Program

Attachment C

Statement of Assurances

To the extent the following provisions apply to this Agreement, the Recipient certifies that:

(a) It possesses legal authority to enter into this Agreement and to carry out the proposed program;

(b) Its governing body has duly adopted or passed as an official act of resolution, motion or similar action authorizing the execution of the hazard mitigation agreement with the Division of Emergency Management (DEM), including all understandings and assurances contained in it, and directing and authorizing the Recipient's chief administrative officer or designee to act in connection with the application and to provide such additional information as may be required;

(c) No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall receive any share or part of this Agreement or any benefit. No member, officer, or employee of the Recipient or its designees or agents, no member of the governing body of the locality in which this program is situated, and no other public official of the locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year after, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds, for work be performed in connection with the program assisted under this Agreement. The Recipient shall incorporate, in all contracts or subcontracts a provision prohibiting any interest pursuant to the purpose stated above;

(d) All Recipient contracts for which the State Legislature is in any part a funding source, shall contain language to provide for termination with reasonable costs to be paid by the Recipient for eligible contract work completed prior to the date the notice of suspension of funding was received by the Recipient. Any cost incurred after a notice of suspension or termination is received by the Recipient may not be funded with funds provided under this Agreement unless previously approved in writing by the Division. All Recipient contracts shall contain provisions for termination for cause or convenience and shall provide for the method of payment in such event;

(e) It will comply with:

(1) Contract Work Hours and Safety Standards Act of 1962, 40 U.S.C. 327 et seq., requiring that mechanics and laborers (including watchmen and guards) employed on federally assisted contracts be paid wages of not less than one and one-half times their basic wage rates for all hours worked in excess of forty hours in a work week; and

(2) Federal Fair Labor Standards Act, 29 U.S.C. Section 201 et seq., requiring that covered employees be paid at least minimum prescribed wage, and also that they be paid one and one-half times their basic wage rates for all hours worked in excess of the prescribed workweek.

(f) It will comply with

(1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), and the regulations issued pursuant thereto, which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Recipient, this assurance shall obligate the Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or

structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits;

(2) Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age or with respect to otherwise qualifies handicapped individuals as provided in Section 504 of the Rehabilitation Act of 1973;

(3) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto, which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction contracts; affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff/termination, rates of pay or other forms of compensation; and election for training and apprenticeship;

(g) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties pursuant to Section 112.313 and Section 112.3135, Florida Statutes;

(h) It will comply with the Anti-Kickback Act of 1986, 41 U.S.C. Section 51 which outlaws and prescribes penalties for "kickbacks" of wages in federally financed or assisted construction activities;

(i) It will comply with the provisions of 18 U.S.C. 594, 598, 600-605 (further known as the Hatch Act) which limits the political activities of employees;

(j) It will comply with the flood insurance purchase and other requirements of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4002-4107, including requirements regarding the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;

For sites located within Special Flood Hazard Areas (SFHA), the Recipient must include a FEMA Model Acknowledgement of Conditions of Mitigation of Property in a Special Flood Hazard Area with FEMA Grant Funds executed by the title holder with the closeout request verifying that certain SFHA requirements were satisfied on each of the properties. The Model Acknowledgement can be found at www.fema.gov/governmenta/grant/sfha_conditions.shtm

(k) It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under this Agreement to comply with the "Uniform Federal Accessibility Standards," (AS) which is Appendix A to 41 CFR Section 101-19.6 for general type buildings and Appendix A to 24 CFR, Part 40 for residential structures. The Recipient will be responsible for conducting inspections to ensure compliance with these specifications by the contractor;

(1) It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1966 (U.S.C. 470), Executive Order 11593, 24 CFR, Part 800, and the Preservation of Archaeological and Historical Data Act of 1966 (16 U.S.C. 469a-I, et seq.) by:

(1) Consulting with the State Historic Preservation Office to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR, Section 800.8) by the proposed activity; and

(2) Complying with all requirements established by the State to avoid or mitigate adverse effects upon such properties.

(3) Abiding by the terms and conditions of the "Programmatic Agreement Among the Federal Emergency Management Agency, the Florida State Historic Preservation Office, the Florida Division of Emergency Management and the Advisory Council on Historic Preservation, (PA)" which addresses roles and responsibilities of Federal and State entities in implementing Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470(£), and implementing regulations in 36 CFR, Part 800.

(4) When any of the Recipient's projects funded under this Agreement may affect a historic property, as defined in 36 CFR, Part 800.16 (l)(1), the Federal Emergency Management Agency (FEMA) may require the Recipient to review the eligible scope of work in consultation with the State Historic Preservation Office (SHPO) and suggest methods of repair or construction that will conform with the recommended approaches set out in the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings 1992 (Standards), the Secretary of the Interior's Guidelines for Archeological Documentation (Guidelines) (48 Federal Register 44734-37), or any other applicable Secretary of Interior standards. If FEMA determines that the eligible scope of work will not conform with the Standards, the Recipient agrees to participate in consultations to develop, and after execution by all parties, to abide by, a written agreement that establishes mitigation and recondition measures, including but not limited to, impacts to archeological sites, and the salvage, storage, and reuse of any significant architectural features that may otherwise be demolished.

(5) The Recipient agrees to notify FEMA and the Division if any project funded under this Agreement will involve ground disturbing activities, including, but not limited to: subsurface disturbance; removal of trees; excavation of footings and foundations, and installation of utilities (such as water, sewer, storm drains, electrical, gas, leach lines and septic tanks) except where these activities are restricted solely to areas previously disturbed by the installation, replacement or maintenance of such utilities. FEMA will request the SHPO's opinion on the potential that archeological properties may be present and be affected by such activities. The SHPO will advise the Recipient on any feasible steps to be accomplished to avoid any National Register eligible archeological property or will make recommendations for the development of a treatment plan for the recovery or archeological data from the property.

If the Recipient is unable to avoid the archeological property, develop, in consultation with SHPO, a treatment plan consistent with the Guidelines and take into account the Advisory Council on Historic Preservation (Council) publication "Treatment of Archeological Properties". The Recipient shall forward information regarding the treatment plan to FEMA, the SHPO and the Council for review. If the SHPO and the Council do not object within fifteen (15) calendar days of receipt of the treatment plan, FEMA may direct the Recipient to implement the treatment plan. If either the Council or the SHPO object, Recipient shall not proceed with the project until the objection is resolved.

(6) The Recipient shall notify the Division and FEMA as soon as practicable: (a) of any changes in the approved scope of work for a National Register eligible or listed property; (b) of all changes to a project that may result in a supplemental DSR or modify a HMGP project for a National Register eligible or listed property; (c) if it appears that a project funded under this Agreement will affect a previously unidentified property that may be eligible for inclusion in the National Register or affect

a known historic property in an unanticipated manner. The Recipient acknowledges that FEMA may require the Recipient to stop construction in the vicinity of the discovery of a previously unidentified property that may eligible for inclusion in the National Register or upon learning that construction may affect a known historic property in an unanticipated manner. The Recipient further acknowledges that FEMA may require the Recipient to take all reasonable measures to avoid or minimize harm to such property until FEMA concludes consultation with the SHPO. The Recipient also acknowledges that FEMA will require, and the Recipient shall comply with, modifications to the project scope of work necessary to implement recommendations to address the project and the property.

(7) The Recipient acknowledges that, unless FEMA specifically stipulates otherwise, it shall not receive funding for projects when, with intent to avoid the requirements of the PA or the NHP A, the Recipient intentionally and significantly adversely affects a historic property, or having the legal power to prevent it, allowed such significant adverse effect to occur.

(m) It will comply with Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;

(n) It will comply with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, (42 U.S.C. 4521-45-94) relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(o) It will comply with 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

(p) It will comply with Lead-Based Paint Poison Prevention Act (42 U.S.C. 4821 et seq.) which prohibits the use of lead-based paint in construction of rehabilitation or residential structures;

(q) It will comply with the Energy Policy and Conservation Act (P.L. 94-163; 42 U.S.C. 6201-6422), and the provisions of the State Energy Conservation Plan adopted pursuant thereto;

(r) It will comply with the Laboratory Animal Welfare Act of 1966, (7 U.S.C. 2131-2159), pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by an award of assistance under this Agreement;

(s) It will comply with Title VIII of the Civil Rights Act of 1968, (42 U.S.C 2000c and 42 U.S.C. 3601-3619), as amended, relating to non-discrimination in the sale, rental, or financing of housing, and Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or national origin;

(t) It will comply with the Clean Air Act of 1955, as amended, 42 U.S.C. 7401-7642;

(u) It will comply with the Clean Water Act of 1977, as amended, 42 U.S.C. 7419-7626

(v) It will comply with the endangered Species Act of 1973, 16 U.S.C. 1531-1544;

(w) It will comply with the Intergovernmental Personnel Act of 1970, 42 U.S.C. 4728-4763;

(x) It will assist the awarding agency in assuring compliance with the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 270;

(y) It will comply with environmental standards which may be prescribed pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347;

(z) It will assist the awarding agency in assuring compliance with the Preservation of Archeological and Historical Preservation Act of 1966, 16 U.S.C. 469a, et seq.;

(aa) It will comply with the Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794, regarding non-discrimination;

(bb) It will comply with the environmental standards which may be prescribed pursuant to the Safe Drinking Water Act of 1974, 42 U.S.C. 300f-300j, regarding the protection of underground water sources;

(cc) It will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970, 42 U.S.C. 4621-4638, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs;

(dd) It will comply with the Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271-1287, related to protecting components or potential components of the national wild and scenic rivers system;

(ee) It will comply with the following Executive Orders: EO 11514 (NEPA); EO 11738 (violating facilities); EO 11988 (Floodplain Management); EO 11990 (Wetlands); and EO 12898 (Environmental Justice);

(ff) It will comply with the Coastal Barrier Resources Act of 1977, 16 U.S.C. 3510;

(gg) It will assure project consistency with the approved State program developed under the Coastal Zone Management Act of 1972, 16 U.S.C. 1451-1464; and

(hh) It will comply with the Fish and Wildlife Coordination Act of 1958, 16 U.S.C. 661-666.

(ii) With respect to demolition activities, it will:

(1) Create and make available documentation sufficient to demonstrate that the Recipient and its demolition contractor have sufficient manpower and equipment to comply with the obligations as outlined in this Agreement.

(2) Return the property to its natural state as though no improvements had ever been contained thereon.

(3) Furnish documentation of all qualified personnel, licenses and all equipment necessary to inspect buildings located in the Recipient's jurisdiction to detect the presence of asbestos and lead in accordance with requirements of the U.S. Environmental Protection Agency, the Florida Department of Environmental Protection and the County Health Department.

(4) Provide documentation of the inspection results for each structure to indicate:
   a. Safety Hazard Present
   b. Health Hazards Present
   c. Hazardous Materials Present

(5) Provide supervision over contractors or employees employed by the Recipient to remove asbestos and lead from demolished or otherwise applicable structures.

(6) Leave the demolished site clean, level and free of debris.

(7) Notify the Division promptly of any unusual existing condition which hampers the contractor's work.

(8) Obtain all required permits.

(9) Provide addresses and marked maps for each site where water wells and septic tanks are to be closed along with the number of wells and septic tanks located on each site. Provide documentation of closures.

(10) Comply with mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

(11) Comply with all applicable standards, orders, or requirements issued under Section 112 and 306 of the Clean Air Act (42 U.S.C. 1857h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and the U.S. Environmental Protection Agency regulations (40 CFR, Part 15 and 61). This clause shall be added to any subcontracts.

(12) Provide documentation of public notices for demolition activities.

Attachment D
Warranties and Representations

Financial Management

Recipient's financial management system must include the following:

(1) Accurate, current and complete disclosure of the financial results of this project or program

(2) Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Recipient shall safeguard all assets and assure that they are used solely for authorized purposes.

(4) Comparison of expenditures with budget amounts for each Request For Payment. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to determine whether costs are allowed and reasonable under the provisions of the applicable OMB cost principles and the terms and conditions of this Agreement.

(6) Cost accounting records that are supported by backup documentation.

Competition

All procurement transactions shall be done in a manner to provide open and free competition. The Recipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure excellent contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the Recipient, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by the Recipient. Any and all bids or offers may be rejected when it is in the Recipient's interest to do so.

Codes of Conduct.

The Recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by public grant funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the Recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The standards of conduct shall provide for disciplinary actions to be applied for violations of the standards by officers, employees, or agents of the Recipient.

Business Hours

The Recipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site, from _____
_____

Licensing and Permitting

All subcontractors or employees hired by the Recipient shall have all current licenses and permits required for all of the particular work for which they are hired by the Recipient.

EXHIBIT E – STATE FUNDED LAP GRANT AGREEMENT (No. D1502)

Attachment E

Certification Regarding
Debarment, Suspension, Ineligibility
And Voluntary Exclusion

Subcontractor Covered Transactions

(1) The prospective subcontractor, National Metering Services Inc, of the Recipient certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the Recipient's subcontractor is unable to certify to the above statement, the prospective subcontractor shall attach an explanation to this form.

SUBCONTRACTOR:

National Metering Services Inc

By: _____
Signature

NATIONAL METERING SERVICES INC
Recipient's Name

William Castle President
Name and Title

_____
DEM Contract Number

235 Hatteras Ave Suite 200
Street Address

ITB-25-05 -PW
Project Number

Clermont FL 34711
City, State, Zip

9/15/2025
Date

30

EXHIBIT E – STATE FUNDED LAP GRANT AGREEMENT (No. D1502)

ATTACHMENT F
FOREIGN COUNTRY OF CONCERN AFFIDAVIT –
PERSONAL IDENTIFYING INFORMATION CONTRACT

Section 287.138, Florida Statutes, prohibits a Florida "Governmental entity"[1] from entering into or extending contracts with any other entity whereby such a contract, or extension thereof, could grant the other entity access to an individual's personal identifying information if that entity is associated with a "Foreign Country of Concern."[2] Specifically, section 287.138(2), Florida Statutes, prohibits such contracts with any entity that is owned by the government of a Foreign Country of Concern, any entity in which the government of a Foreign Country of Concern has a "controlling interest,"[3] and any entity organized under the laws of or which has its principal place of business in a Foreign Country of Concern.

As the person authorized to sign on behalf of Recipient, I hereby attest that the company identified below in the section entitled "Recipient" is not an entity owned by the government of a Foreign Country of Concern, no government of a Foreign Country of Concern has a controlling interest in the entity, and the entity has not been organized under the laws of or has its principal place of business in a Foreign Country of Concern.

I understand that pursuant to section 287.138, Florida Statutes, I am submitting this affidavit under penalty of perjury.

Recipient Name: NATIONAL MORTGAGE SERVICES INC.

Recipient FEIN: 22-3392696

Recipient's Authorized Representative Name and Title: William Castle President

Address: 235 HATTERAS AVE SUITE 200

City: Clermont State: FL Zip: 34711

Phone Number: 201-625-2850

Email Address: WCASTLE@NMSNJ.COM

Certified By: [signature]

AUTHORIZED SIGNATURE

Print Name and Title: William Castle PRESIDENT

Date: 9/15/2025

[1] As defined in Section 287.138 (1)(d), Florida Statutes.
[2] As defined in Section 287.138 (1)(c), Florida Statutes.
[3] As defined in Section 287.138 (1)(a), Florida Statutes.

EXHIBIT A

FIRST AMENDMENT TO THE INDEPENDENT CONTRACTORS' AGREEMENT WITH NATIONAL METERING SERVICE

THIS FIRST AMENDMENT is made and entered into this 3rd day of November 2025, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and NATIONAL METERING SERVICE, hereinafter referred to as "Contractor", to that certain existing Independent Contractors Agreement, dated October 14, 2025 ("Agreement") for Water Meter Replacement Program as approved by the Town Council of the Town of Fort Myers Beach on August 19, 2025.

WITNESSETH:

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the services provided by Contractor under the Agreement will be to replace all 5/8- and 1-inch meters from Radio frequency ("RF") meters to the Cellular ("Cell") metering system in the Town's distribution system, necessitating the need to amend the original contract price and scope of meter type of $1,619,790 to $1,823,952 as provided in Attachment A to this First Amendment; and

WHEREAS, the Town became aware of the local availability of advanced meter reading technology after the approval of Resolution 25-235 on August 4, 2025; and

WHEREAS, the change from a RF model to a Cell model will assure 100% coverage of the Town's jurisdiction for distribution monitoring, meter reading, and customer interface by eliminating all fixed antennas previously proposed; and

WHEREAS, National Metering Service has provided updated meter costs for both 5/8- and 1-inch meters and their meter antennas to make the Town's meters compatible with the AMI Cellular Meter Reading and Monitoring System utilizing the Cell model from their bid proposal for consideration; and

WHEREAS, the change from a Radio Frequency ("RF") model to a Cellular ("Cell") model quote will increase the not to exceed approved project cost by $204,162 for a total of $1,823,952.00; and

WHEREAS, the change from a RF model to a Cell model will assure continuous uninterrupted monitoring of the water distribution system under normal operations in addition to emergency situations (hurricanes) and further provides the residents and business owners a reliable, safe, and efficient meter and distribution monitoring system.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this First Amendment as follows:

1. Amendment. This First Amendment amends and supplements the existing Agreement between the parties. In the event of a conflict between the terms and conditions contained in the Agreement and this First Amendment, the terms of this Amendment shall prevail. Attachment A to this First Amendment provides for the modifications to the scope and pricing originally provided within the Agreement in its Exhibits "A" and "B" to reflect the change from a RF model to a Cell model and its associated costs.

2. Available Funding. The Agreement is amended to provide that total payment for the cellular metering system shall not exceed $1,823,952 in FY 2025 and FY 2026 as provided in Attachment A to this First Amendment, and replaces the total costs originally provided in Exhibit "B" and any further references to Exhibit "B" within the Agreement.

IN WITNESS WHEREOF, the parties have executed and delivered this instrument on the days and year indicated below to bind the parties.

Contractor: John Castle

Print Name: John Castle, General Manager

Company: National Metering Service

ATTEST:

Amy Baker (Jan 26, 2026 16:41:51 EST)

Amy Baker, Town Clerk

Town of Fort Myers Beach

Dan Allers (Jan 26, 2026 16:38:32 EST)

Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

Nan[illegible]patch (Jan 26, 2026 10:59:49 EST)

Vose Law Firm, Town Attorney

WATER METER REPLACEMENT PROJECT
TECHNICAL SPECIFICATIONS

TS-1.0 Scope of Work
The Town of Fort Myers Beach (the "Town") plans to replace and standardize all water meters to a Single Meter Encoder-Receiver-Transmitter (RT) combination. The combination meter will allow the Town to collect meter readings remotely and upload the data through the Advanced Metering Infrastructure (AMI) system. The AMI System will improve accuracy and efficiencies in the water meter readings collections, health monitoring and leak detection.

The Bidder is expected to purchase materials and equipment for approximately 3,000 water meters and complete the installation for the residential properties. Bidder is also required to purchase and inventory the materials and equipment.

The requirements for the Water Meter Replacement project also includes, but is not limited to, the repairing or replacing of the water meter box, removal of existing water meters and boxes, maintenance of traffic, trench/roadway restoration, site restoration, and all the other appurtenances necessary to complete the project. The Town currently uses two sizes of meters: 5/8 inches and 1 inch

Exception: If the meter currently has a meter box with an antenna installed, the meter will not be replaced, no further action is required.

During the course of the project, Bidder will be required to work and coordinate with multiple departments within the Town to ensure a smooth process and accuracy in reporting and documentation.

- Coordination with the Customer Service Department is critical to ensure that sectors of the Town (cycle route) are not being read or billed at the same time as meter exchanges.
- Coordination with the Water Department is needed in the process of receiving a snapshot of all water meters in the Town.

TS-2.0 Work Plan
Prior to commencement of Work the Contractor must understand the additional requirements besides the replacement of the water meter for the project:

- As needed, repair or replace curb stops.
  - Repair or replacement is to the resident's connection.
- Requirement – meter couplings required (spuds) on both sides of the new meter.
- If needed – replace the water meter box

TS-2.1 Reports
The Contractor shall maintain a record of the meter replacements through the meter exchange tickets. The Contractor shall take a photograph for the Town of each existing meter and new meter once the meter has been replaced to verify replacement has occurred.

- Serial Number
- Meter Size
- Location Address

TS-2.2 Meetings/Communication
During the project, Contractor will be required to meet, work and coordinate with multiple departments with the Town to ensure smooth transition and accuracy in reporting and documentation.

- Utilities Customer Service Department – Coordinate efforts to ensure sectors of the Town (cycle

routes) are not being read or billed at the same time of the meter exchange.
- Water Department – Coordinate if needed to receive a snapshot of the water meter.

TS-3.0 Time of Operations

The Contractor is allowed to conduct work activities during daylight hours Monday through Friday, excluding weekends and Holidays, at the Contractor's discretion, provided that the Contractor complies with all applicable labor laws. The Contractor may request in writing with minimum 5-day notice to the Town to conduct work on weekends. The Town will review each request individually.

TS-3.1 Timeline

Project duration for completion is one (1) year from the time the contract is fully executed.

TS-3.2 Testing

Performance tests and checks are required for each meter and is the Contractors responsibility. The Town will assign a representative to periodically inspect the meters, appurtenances and site restoration.

TS-3.3 Repairs

The Contractor will have 24 hours to repair any and all leaks from the time the Contractor is notified by the Town's representative.

TS-4.0 Disposal of Old Meters

All used meters are to be returned to the Town Hall, Utilities Department. The used meters must be tagged with the residential address that equipment was removed from.

TS-5.0 Warranty

The Contractor shall provide the full manufacturer warranty. In addition, the Contractor shall provide an installation warranty covering workmanship and labor for a period of three (3) months.

The Contractor will repair the leaks and related damages to the residential property at no cost to the Town.

TS-6.0 Contractors Responsibility

The Contractor also accepts sole responsibility for any damage to any person and or property resulting from their performance of the work, whether based on negligence or any other equitable claim.

TS-6.1 Noise

The Contractor shall conduct their operations to comply with all Federal, State, and local laws pertaining to noise. The Contractor shall use a decibel meter and keep records as necessary to verify the Work is being conducted accordingly.

TS-7.0 General

The Contractor shall purchase the materials and equipment required for the Project as well as be responsible for storing and inventory. Table 1 presents the required Brand Specific materials and equipment. No deviations to Table 1 are allowed.

All used meters are to be returned to the Town Hall, Utilities Department. The used meters must be tagged with the residential address that equipment was removed from.

Proposed Water Meter Replacement Materials

Size	Brand Specific	Model	Approx Number of Units
5/8 Inch	Neptune Technology Group	Mach 10 – EU1B2G1 (5/8x3/4 Mach 10 R900i v4 Gallons)	2,500
1 Inch	Neptune Technology Group	Mach 10 – EU1F2G1 (1" Mach 10 R900i v4 Gallons)	250
Antenna	Neptune Technology Group		3,000
5/8 Inch Curb Stop	Ford	B43-342W-NL (3/4" Ball Valve, Pad Wing – No Lead 1" CTS Pack Joint by 5/8"x3/4" & ¾" Meter Swivel Nut) or approved equivalent	As Needed up to 1,000 Unites
1 Inch Curb Stop	Ford	B43-444W-NL (1" Ball Valve, Pad Wing – No Lead 1" CTS Pack Joint by 1" Meter Swivel Nut) or approved equivalent	As Needed up to 150 Unites
5/8 Inch Straight Meter Coupling	Ford	C38-23-2-NL (2" Length) or approved equivalent	As Needed
1 Inch Straight Meter Coupling	Ford	C38-44-2-NL (2" Length) or approved equivalent	As Needed up to 150 unites
Meter Box	Quazite	CDR Box 11"x18"x12" Straight Wall or approved equivalent	As Needed
Meter Lid	Quazite	CDR Cover 11"x18"x12" w/ 4"x6" CIR5t or approved equivalent	As Needed

TS-8.0 Post-Work Cleanup or Obliteration

The Contractor shall obliterate all signs of Work areas, waste materials, or any other vestiges of construction as directed by Town and Engineer.

TS-8.1 Disposal

Disposal of any materials, waste, trash, garbage, etc., in areas adjacent to streams or other waters of the State shall not be permitted. If any waste material is dumped in unauthorized areas, the Contractor shall remove the material and restore the area to its original condition before being disturbed. If necessary, contaminated ground shall be excavated, disposed of as directed by the Town, and replaced with suitable fill material, compacted and finished with topsoil and planted as required to re-establish vegetation

EXHIBIT B – PROJECT COST

Water Meter Replacement Project Bid Sheet					
Size	**Brand Specific**	**Model**	**Approx Number of Units**	**Unit Price**	**Extended Price**
5/8 Inch	Neptune Technology Group	Mach 10 – EU1B2G1 (5/8x3/4 Mach 10 R900i v4 Gallons)	2,500	$454.80	$1,137,000.00
1 Inch	Neptune Technology Group	Mach 10 – EU1F2G1 (1" Mach 10 R900i v4 Gallons)	250	$599.35	$149,837.50
Antenna	Neptune Technology Group		3,000	$41.00	$123,000.00
5/8 Inch Curb Stop	Ford	B43-342W-NL (3/4" Ball Valve, Pad Wing – No Lead 1" CTS Pack Joint by 5/8"x3/4" & ¾" Meter Swivel Nut) or approved equivalent	As Needed up to 1,000 Unites	$176.93	$176,930.00
1 Inch Curb Stop	Ford	B43-444W-NL (1" Ball Valve, Pad Wing – No Lead 1" CTS Pack Joint by 1" Meter Swivel Nut) or approved equivalent	As Needed up to 150 Unites	$218.12	$32,718.00
5/8 Inch Straight Meter Coupling	Ford	C38-23-2-NL (2" Length) or approved equivalent	As Needed	$26.34	$26.34
1 Inch Straight Meter Coupling	Ford	C38-44-2-NL (2" Length) or approved equivalent	As Needed up to 150 unites	$33.45	$33.45
Meter Box	Quazite	CDR Box 11"x18"x12" Straight Wall or approved equivalent	As Needed	$175.95	$175.95
Meter Lid	Quazite	CDR Cover 11"x18"x12" w/ 4"x6" CIR5t or approved equivalent	As Needed	$69.48	$69.48
				Base Bid Total	$1,619,790.72

Name of Bidder: National Metering Services, Inc.

Total Base Price: $1,619,790.72

First Amendment to National Meter Service ITB-25-05-PW Agreement

Final Audit Report 2026-01-26

Created:	2026-01-26
By:	Amy Baker (AMY@FMBGOV.COM)
Status:	Signed
Transaction ID:	CBJCHBCAABAAII-KqU7Jj_sFZ9hADOVrr_klg6Q5qsol

"First Amendment to National Meter Service ITB-25-05-PW Agreement" History

Document created by Amy Baker (AMY@FMBGOV.COM)
2026-01-26 - 3:42:03 PM GMT

Document emailed to Dan Allers (allersd@fmbgov.com) for signature
2026-01-26 - 3:42:08 PM GMT

Document emailed to Nancy Stuparich (nstuparich@voselaw.com) for signature
2026-01-26 - 3:42:08 PM GMT

Document emailed to Amy Baker (AMY@FMBGOV.COM) for signature
2026-01-26 - 3:42:09 PM GMT

Email viewed by Nancy Stuparich (nstuparich@voselaw.com)
2026-01-26 - 3:59:28 PM GMT

Document e-signed by Nancy Stuparich (nstuparich@voselaw.com)
Signature Date: 2026-01-26 - 3:59:49 PM GMT - Time Source: server

Email viewed by Dan Allers (allersd@fmbgov.com)
2026-01-26 - 9:38:15 PM GMT

Document e-signed by Dan Allers (allersd@fmbgov.com)
Signature Date: 2026-01-26 - 9:38:32 PM GMT - Time Source: server

Document e-signed by Amy Baker (AMY@FMBGOV.COM)
Signature Date: 2026-01-26 - 9:41:51 PM GMT - Time Source: server

Agreement completed.
2026-01-26 - 9:41:51 PM GMT

Adobe Acrobat Sign

SECOND AMENDMENT TO THE INDEPENDENT CONTRACTORS' AGREEMENT WITH NATIONAL METERING SERVICE

THIS SECOND AMENDMENT is made and entered into this 2nd day of February 2026, by and between the TOWN OF FORT MYERS BEACH, a Florida municipality, hereinafter referred to as the "Town", and NATIONAL METERING SERVICE, hereinafter referred to as "Contractor", to that certain existing Independent Contractors Agreement, dated October 14, 2025 ("Agreement") for Water Meter Replacement Program as approved by the Town Council of the Town of Fort Myers Beach on August 19, 2025.

WITNESSETH:

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Town became aware of the need to have an accurate GPS locations and service line identification inventory of our meters; and

WHEREAS, the location data pinpoints the location of the meter on each induvial property allowing utilities personnel to quickly and efficiently find meters for service purposes during normal operations but especially after major storm events; and

WHEREAS, the time saved knowing the location saves labor costs, lost water revue, house or business damages in case of major internal or external pipe breakage and leakage; and

WHEREAS, the data is downloaded to our Geographic Information System (GIS) program in compliance with the Florida Department of Environmental Protection (FDEP) Rule 62-555.350(14) that we must maintain an accurate and updated map of our distribution system; and

WHEREAS, the service line identification inventory data is to determine if there is any lead and or copper service lines either before or after the meter; and

WHEREAS, through the identification we can then replace the lines as needed to comply and provide for a lead free water service; and

WHEREAS, the data is also downloaded to our Geographic Information System (GIS) program in compliance with the Environmental Protection Agency (EPA), administered by the Florida Department of Environmental Protection (FDEP), Rule 40 Code of Federal Regulations (CFR) sections 141.80-91, that we must identify and inventory all service lines within the distribution system; and

WHEREAS, the National Metering Service is the contractor who will be locating the

meters for replacement and during replacement will be exposing the service lines for inventory purposes; and

WHEREAS, when combined with our cellular meter technology it will provide the residents with a complete overall picture of their water service composition, usage and locations.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties agree to this Second Amendment as follows:

1. **Amendment.** This Second Amendment amends and supplements the existing Agreement between the parties. In the event of a conflict between the terms and conditions contained in the Agreement and this Second Amendment, the terms of this Amendment shall prevail. Attachment A to this Second Amendment provides for the modifications to the scope and pricing originally provided within the Agreement in its Exhibits "A" and "B" to reflect the addition of geospatial positioning system (GPS) data points and lead and copper service line identification inventory and its associated costs.

2. **Available Funding.** The Agreement is amended to provide that total payment for the cellular metering system and additional services through this Amendment shall not exceed $1,920,852 in FY 2025 and FY 2026 as provided in Attachment A to this First Amendment, and replaces the total costs originally provided in Exhibit "B" and any further references to Exhibit "B" within the Agreement or First Amendment.

IN WITNESS WHEREOF, the parties have executed and delivered this instrument on the days and year indicated below to bind the parties.

Contractor:

Print Name: John Castle

Company: National Metering Service

ATTEST:

Amy Baker (Jun 8, 2026 13:36:39 EDT)

Amy Baker, Town Clerk

Town of Fort Myers Beach

Dan Allers
Dan Allers (Jun 8, 2026 12:35:17 EDT)

Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY

Nancy Stuparich (Jun 8, 2026 11:26:38 EDT)

Vose Law Firm, Town Attorney

Town of Fort Myers Beach
Agenda Item Summary

Blue Sheet Number: **2026-597**

1. **Request:**

Meeting Date: June 15, 2026

Pursuant to Section 286.011(8), Florida Statutes, the Town Council of the Town of Fort Myers Beach, Florida, the Town Attorney is announcing the need and a request for an Executive Session, which will be closed to the public at 1:00 PM on Monday, August 3, 2026 in the 3rd Floor Conference Room at Town Hall, to discuss settlement negotiations and strategy related to litigation expenditures regarding
Town of Fort Myers Beach, Florida v. White Sand Properties of Fort Myers Beach, LLC. Case No. 2026-CA-001659, 20th Judicial Circuit, Lee County, Florida. Persons attending the Executive Session include**:** Mayor Dan Allers, Vice-Mayor Scott Safford, Council Members John R. King, Rebecca Link, and John McLean, Town Manager William McKannay, Town Attorneys Nancy Stuparich, Becky Vose (by Zoom), Chloe Berryman (by Zoom), and Paul Waters (by Zoom), and a court reporter to be announced prior to the commencement of the Executive Session. The Executive Session is expected to last 1 hour and the regular Town Council Meeting will resume thereafter.

Why the action is necessary:

What the action accomplishes:

2. **Agenda:**	3. **Requirement/Purpose:**	4. **Submitter of Information:**
TOWN ATTORNEY'S ITEMS	Other	nancy stuparich, Town Attorney

5. **Background:**

The purpose of the Executive Session is to discuss settlement negotiations and strategy related to litigation expenditures. The Town Council may take action concerning settlement negotiations once the Executive Session is concluded and the public meeting is reopened.

Attachments:

1. NS Town Hall Board Public_Notice_Litigation_Executive_Session_White Sands

Financial Impact:

6. **Alternative Action**

7. **Management Recommendations:**

8. **Recommended Approval:**

Nancy Stuparich, Town Attorney	Created/Initiated - 6/4/2026
nancy stuparich, Town Attorney	Approved - 6/5/2026
Amy Baker, Town Clerk	Approved - 6/5/2026
William McKannay, Town Manager	Final Approval - 6/8/2026

PUBLIC NOTICE RELATED TO A LITIGATION EXECUTIVE SESSION OF THE FORT MYERS BEACH TOWN COUNCIL

Notice is hereby given that, pursuant to Section 286.011(8), Florida Statutes, the Town Council of the Town of Fort Myers Beach, Florida, will commence a Litigation Executive Session closed to the public at 1:00 p.m. on August 3, 2026, to discuss settlement negotiations and strategy related to litigation expenditures regarding the following case:

Town of Fort Myers Beach, Florida vs. White Sand Properties of Fort Myers Beach, LLC, Case No. 2026-CA-001659, 20th Judicial Circuit, Lee County, Florida

Persons attending the Executive Session include**:** Mayor Dan Allers, Council Members John R. King, Rebecca Link and John McLean, Town Manager William McKannay, Town Attorneys Nancy Stuparich, Becky Vose (by Zoom), Chloe Berryman (by Zoom), and Paul Waters (by Zoom), and a court reporter. Vice-Mayor Safford will not participate due to a conflict of interest.

The session is expected to last 1 hour. The purpose of the Executive Session is to discuss settlement negotiations and strategy related to litigation expenditures. The Town Council may take action concerning settlement negotiations once the Executive Session is concluded and the public meeting is reopened.

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Amy Baker, Town Clerk

Posted to: Town Hall Bulletin Board

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