



**INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF OAKLAND PARK
FOR SURTAX-FUNDED MUNICIPAL TRANSPORTATION PROJECT: CONSTRUCTION OF A
STORMWATER PUMP STATION AND PIPELINE IMPROVEMENTS IN THE NORTH ANDREWS
GARDEN NEIGHBORHOOD (BC-OAKLAND-FY2020-00002)**

This Interlocal Agreement (“Agreement”) is made and entered by and between Broward County, a political subdivision of the State of Florida (“County”), and the City of Oakland Park, a municipality of the State of Florida (“Municipality”) (each a “Party” and collectively referred to as the “Parties”).

RECITALS

A. In November 2018, Broward County voters approved a 30-year sales surtax (also known as “Penny for Transportation”) to fund statutorily-permissible transportation expenditures.

B. All projects, County, State, and municipal, funded by the transportation surtax are evaluated for eligibility under Section 212.055(1), Florida Statutes, by the independent Transportation Surtax Oversight Board before the Broward County Board of County Commissioners makes the final decisions regarding project funding.

C. A process has been established pursuant to which surtax-funded staff at the Broward Metropolitan Planning Organization (“MPO”) prioritize municipal projects, with the exception of municipal rehabilitation and maintenance projects, and make recommendations for funding. The first round of ranking of municipal capital projects was recently completed by the MPO following extensive and detailed discussions with the submitting municipalities, and the Project contemplated in this Agreement was included in that review and ranking.

D. The municipal Project defined herein has been determined statutorily eligible for funding and subsequently approved for funding by the Broward County Board of County Commissioners.

E. The purpose of this Agreement is to set forth the terms and conditions for County to provide transportation surtax funding for the Project and the terms and conditions for Municipality to complete the Project. Municipality will implement the Project, as funded by County with surtax funding, in accordance with the terms of this Agreement.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1. **Board** means the Board of County Commissioners of Broward County, Florida.

- 1.2. **Contract Administrator** means the County Administrator or such other person designated by the County Administrator in writing.
- 1.3. **Contractor** means the persons, firms, or corporations with whom Municipality has or will contract for the performance of the Project.
- 1.4. **Consultant** means the architect or engineer with whom Municipality has or will contract to provide programming, design, construction management, engineering, and inspection, or other professional services for the Project.
- 1.5. **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.
- 1.6. **Maximum Funding Amount** means the maximum funding amount stated in Section 5.4.
- 1.7. **Oversight Board** means the independent Transportation Surtax Oversight Board created pursuant to Section 31½-75 of the Broward County Code of Ordinances.
- 1.8. **Project** means the project described in Exhibit A.
- 1.9. **Project Manager** means the City Public Works Director.
- 1.10. **Subcontractor** means an entity or individual providing services to Municipality through Contractor or Consultant for all or any portion of the Project. The term “Subcontractor” includes subconsultants.
- 1.11. **Surety** means the surety company or individual that is bound by the performance bond and payment bond and that is responsible for Contractor’s or Consultant’s acceptable and timely performance and completion of the Project under this Agreement and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes.
- 1.12. **Surtax-Funded Projects** means any project, including without limitation the Project described in Exhibit A, that is funded in whole or in part by the transportation surtax collected pursuant to Section 212.055(1), Florida Statutes.

ARTICLE 2. EXHIBITS

Exhibit A	Project Description and Project Schedule
Exhibit B	Funding Schedule
Exhibit C	Reporting Requirements
Exhibit D	Form Contracts
Exhibit E	Municipal Resolution Authorizing Execution of Agreement

ARTICLE 3. PROJECT DESCRIPTION; COMPETITIVE PROCUREMENT; PERMITTING

3.1. Project Description and Project Schedule. Municipality shall perform, or cause to be performed, the Project in accordance with the Project Description and the Project Schedule set forth in **Exhibit A**. The Project Description is a general description of the Project and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the Project described that exclusion of any of them would be impractical, illogical, or unconscionable.

3.2. Municipal Responsibility for the Project. Municipality is solely responsible for the Project, subject to the terms of this Agreement. County has no responsibility for the construction means, methods, techniques, sequences, or procedures employed in the performance of the Project. Municipality shall be solely responsible for retention, supervision, and payment of Contractor, Consultant, and all Subcontractors. Municipality shall be solely responsible for securing any and all property rights or permits required by the Project. Nothing in this Agreement shall impose on County an obligation to assume any contract or subcontract, or to make payment to Contractor, Consultant, or any Subcontractor, vendor, or supplier, or to perform the Project or any portion thereof, or to supply any goods or services for the Project. Further, nothing contained herein shall create any contractual relationship between County and Contractor, Consultant, or any Subcontractor, vendor, or supplier.

3.3. Competitive Procurement; Consultants' Competitive Negotiation Act. Except to the extent the Contract Administrator has approved utilization of an existing contract by Municipality for the services to be performed by Contractor or Consultant, Municipality must provide the proposed solicitation(s) for the Project to the Contract Administrator for review at least twenty (20) days prior to publication of the solicitation by Municipality. County's review shall include, without limitation, determination of the applicable CBE Goal (as defined in Article 10), which must be included by Municipality in the solicitation(s). If Municipality seeks to utilize an existing contract for the services to be performed by the Contractor or Consultant, Municipality must obtain prior approval by County and must provide the Contract Administrator with the proposed contract and supporting documentation for consideration pursuant to the procedures stated in Section 3.5.2; County may require, as a condition for its approval, that the engagement of Contractor or Consultant for this Project utilizing an existing municipal contract include modifications or additions to the existing contract terms and conditions, including without limitation any provision identified in Section 3.5.3. Municipality must comply with all applicable provisions of state law including, as applicable, Section 255.20 and Section 287.055, Florida Statutes, in the procurement of any services or materials relating to the Project. If any applicable state or federal procurement requirement is stricter than any other applicable requirement, Municipality shall be obligated to meet the stricter requirement. Prior to the execution of any contract with Contractor or Consultant relating to the Project, Project Manager shall certify in writing to the Contract Administrator that the procurement and the proposed contract comply with the requirements of this Section 3.3.

3.4. Modifications to Project or Phases.

3.4.1. Material Changes to the Project. Material changes are changes that increase the Maximum Funding Amount or materially modify the Project Description. Any proposed material change to the Project Description that does not increase the Maximum Funding Amount requires the prior written approval of the Contract Administrator. Any proposed material change that would increase the Maximum Funding Amount requires an amendment of this Agreement. Any proposed material change may also, if determined necessary by Contract Administrator pursuant to the applicable contractual, statutory, or other surtax-related requirements, require review by the Oversight Board for statutory eligibility. Municipality shall submit to the Contract Administrator written notice of the proposed material change and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove in writing the proposed material change to the Project Description that does not increase the Maximum Funding Amount within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely approved, the request shall be deemed disapproved. Any material change that increases the Maximum Funding Amount must be approved by the Board.

3.4.2. Modifications to Construction Phase. Requests for additional funding as a result of modifications to the construction phase of a Project that exceed the amount provided in the then-current Funding Schedule, including without limitation change orders or other scope changes, are subject to (i) approval by the Contract Administrator, and (ii) the Board's allocation of additional funding; such requests may also, if determined necessary by Contract Administrator pursuant to the applicable contractual, statutory, or other surtax-related requirements, require additional review by the Oversight Board for statutory eligibility. Municipality shall submit to the Contract Administrator written notice of its request for additional funding and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove the request in writing within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely approved, the request shall be deemed disapproved.

3.4.3. Owner Enhancements. In addition to any approvals that may be required pursuant to this Agreement, any increased or additional costs due to changes in the quality of materials, furnishings, finishes, aesthetics, or any other cost reasonably determined by the Contract Administrator to be an "owner enhancement" (including, without limitation, decorative lighting, decorative paving, and improvements that are not within the public right of way) must be funded solely by Municipality with non-surtax funding, and County shall have no funding responsibility for any such increased costs. Upon the Contract Administrator's request, the Project Manager shall provide sufficient

detail for the Contract Administrator's determination of whether any increased or additional costs include owner enhancements. The Contract Administrator shall determine, after consultation with the Project Manager, whether the increased or additional costs constitute owner enhancements.

3.4.4. Project Schedule. Any proposed change in the Project Schedule that modifies the commencement or completion date for any phase or for the Project by more than sixty (60) days requires the prior written approval of the Contract Administrator. Municipality shall submit to the Contract Administrator written notice of the proposed change and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove in writing the proposed change within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely disapproved, the request shall be deemed approved.

3.4.5. Nonmaterial Changes. Nonmaterial changes to the Project (namely, changes that do not require approvals under Sections 3.4.1, 3.4.2, 3.4.3, or 3.4.4) do not require County approval and may be approved by the Project Manager.

3.5. Contractor and Consultant Contracts.

3.5.1. Form Contracts. County has preapproved the Surtax-Funded Projects Form Construction Contract and the Surtax-Funded Projects Form Consultant Contract (collectively, the "**Form Contracts**") attached as **Exhibit D**, which Municipality may utilize for its contracts with Contractor and Consultant, respectively. County may update the Form Contracts from time to time upon written notice to Municipality, and such updated Form Contracts shall be the applicable forms for solicitations advertised after the date of such written notice by County.

3.5.2. County Approval. Unless the Form Contracts are utilized for the Project with no material modification or an existing municipal contract is approved by County for use pursuant to Section 3.3, Municipality must obtain written approval from the County Attorney's Office for Municipality's contract(s) with Contractor and with Consultant prior to utilization of the contracts for the Project (and prior to publication of the solicitation, if the contract is included in the solicitation). In addition to the provisions required to be included in Municipality's contracts with Contractor and with Consultant pursuant to Section 8.1 or Section 10.5, Municipality's contracts must also include the provisions listed in Section 3.5.3 and Section 3.5.4, as applicable, in the form stated in the Form Contracts. Any material modification to any required contractual provision must be approved in advance by the County Attorney's Office; no subsequent material change to the contract(s) for the Project may be made without written approval from the County Attorney's Office. Municipality agrees and acknowledges that County's approval of any contracts with Contractor or Consultant, including without limitation the Form Contracts, is solely for purposes of protecting County's interests; County approval of any such contract does not constitute a legal opinion, including without limitation as to the legal

sufficiency of the contract, for use or reliance by Municipality or any third party and shall not be the basis for any claim or liability against County or asserted to avoid any reimbursement or other obligation of Municipality under this Agreement. Municipality shall provide at least twenty (20) days' written notification to the Contract Administrator and the County Attorney's Office prior to award of the contract to Contractor or Consultant, as applicable, which notice must include a copy of the competitive solicitation (or other applicable procurement document) for the Project, the responsive submission by the proposed Contractor or Consultant, the proposed contract amount for the Project, the proposed contract, and the date on which Municipality intends to award the contract. County may disapprove the proposed contract: (a) for failure to comply with any requirement of this Agreement; (b) if the contract price exceeds or is materially inconsistent with the Funding Schedule (absent good cause, as determined by Contract Administrator); or (c) after consultation with Project Manager, for any other good cause as determined in the sole discretion of the Contract Administrator. If County disapproves any proposed contract, County must provide notice of such disapproval within twenty (20) days after receipt of the notice and the documents required pursuant to this section; if not timely disapproved, the proposed contracts shall be deemed approved.

3.5.3. For the contract with Contractor, the following provisions from the Surtax-Funded Projects Form Construction Contract must be included:

- 3.5.3.1. Contract, Article 3 (Contract Time)
- 3.5.3.2. Contract, Article 5 (Progress Payments; Retainage)
- 3.5.3.3. Contract, Article 6 (Acceptance and Final Payment)
- 3.5.3.4. General Conditions, Article 4 (Performance Bond and Payment Bond) and Article 5 (Qualification of Surety)
- 3.5.3.5. General Conditions, Article 17 (Project Records and Right to Audit) (*see also* Section 8.1 herein)
- 3.5.3.6. General Conditions, Article 33 (Location and Damage to Existing Facilities, Equipment, or Utilities)
- 3.5.3.7. General Conditions, Article 38 (Change Orders) and Article 39 (Value of Change Order Work)
- 3.5.3.8. General Conditions, Article 14 (Superintendence and Supervision)
- 3.5.3.9. General Conditions, Article 20 (Differing Site Conditions)
- 3.5.3.10. General Conditions, Article 40 (Notification and Claim for Change of Contract Time or Contract Price)
- 3.5.3.11. General Conditions, Article 41 (No Damages for Delay)
- 3.5.3.12. General Conditions, Article 42 (Excusable Delay; Compensable; Non-Compensable)
- 3.5.3.13. General Conditions, Article 53 (Domestic Partnership)
- 3.5.3.14. General Conditions, Article 54 (Equal Employment Opportunity and CBE/SBE Compliance)
- 3.5.3.15. Supplemental Wage Requirements (Prevailing Wage Rate Ordinance)

3.5.4. For the contract with Consultant, the following provisions from the Surtax-Funded Projects Form Consultant Contract must be included:

- 3.5.4.1. Article 4 (Time for Performance; Contractor Damages)
- 3.5.4.2. Sections 5.3 and 5.4 (Reimbursable Expenses; Method of Billing)
- 3.5.4.3. Section 7.5 (Truth in Negotiation)
- 3.5.4.4. Section 7.9 (Domestic Partnership Requirement)
- 3.5.4.5. Article 10 (Equal Employment Opportunity and CBE Compliance)
- 3.5.4.6. Section 11.4 (Public Records and Trade Secrets)
- 3.5.4.7. Section 11.5 (Audit Rights)
- 3.5.4.8. Section 11.8 (Indemnification)
- 3.5.4.9. Section 11.14 (Drug-Free Workplace)

ARTICLE 4. TERM AND TIME OF PERFORMANCE

4.1. Term. The term of this Agreement shall begin on the date it is fully executed by the Parties (“Effective Date”) and shall end on September 19, 2025 (“Initial Term”).

4.2. Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year (October 1 through September 30) is subject to both the appropriation and the availability of transportation surtax funds in accordance with Chapter 129, Florida Statutes.

4.3. Time of the Essence. Unless expressly waived by the Contract Administrator in writing, time is of the essence in Municipality’s performance of its duties, obligations, and responsibilities under this Agreement.

ARTICLE 5. FUNDING AND SURETY

5.1. Surtax Funding. County shall provide funding to Municipality for the Project in accordance with the Funding Schedule (**Exhibit B**). Any amounts, costs, or expenses indicated as ineligible for funding in Exhibit B shall not be funded by County but must instead be funded by Municipality from non-surtax funds. The Parties agree and acknowledge that all funding provided by County to Municipality under this Agreement shall be paid exclusively from and subject to the availability of proceeds from the transportation surtax levied pursuant to Section 212.055(1), Florida Statutes, and County shall not have any obligation to provide, nor shall County provide, any funding from County’s general revenue or any other County source. Municipality agrees and stipulates that the funding provided by County to Municipality under this Agreement will be utilized by Municipality only for the purposes permitted under Section 212.055(1), Florida Statutes.

5.2. Method of Billing and Payment. Municipality shall invoice County only in accordance with the Funding Schedule. Any credit due to County under Section 5.6 must be reflected on the next applicable invoice. To be proper, each invoice must comply with the requirements of Exhibit B and be accompanied by a certification by the chief administrative officer and the chief financial officer of Municipality, or such other persons designated by Municipality with authority to act in

similar capacities, that all funds received and utilized to date by Municipality under this Agreement were utilized only for the Project, only for the portion(s) of the Project that the Oversight Board and County determined were eligible for surtax funding, and only for purposes that Municipality independently determined were eligible for surtax funding. County shall pay Municipality in accordance with the Funding Schedule within thirty (30) days of receipt of Municipality’s proper invoice. Payment shall be made to Municipality at the address designated by Municipality for notices pursuant to Section 11.6.

5.3. Phases; Funding Schedule. The Funding Schedule may provide for funding the Project in phases or by deliverable, with the funding for subsequent phases or deliverables to be determined after completion of prior phases or particular deliverables. Any such later-determined funding for the Project, including any modification to the funding amount(s), phase(s), or deliverable(s) stated in the Funding Schedule, shall require a written amendment to this Agreement with an amended Funding Schedule attached thereto setting forth the next phase(s) or deliverable(s) and applicable funding for same. All terms and conditions of this Agreement shall apply to any such amended Funding Schedule. The County Administrator, on behalf of County, and Municipality’s City Manager, on behalf of Municipality, are authorized to execute amendments to this Agreement to incorporate an amended Funding Schedule, provided the total of all funding obligations of County under this Agreement does not exceed the total Maximum Funding Amount. Any amended Funding Schedule or other amendment that would cause County’s total funding obligations under this Agreement to exceed the Maximum Funding Amount shall not be effective unless approved by the Board.

5.4. Maximum Funding. Municipality acknowledges that the Maximum Funding Amount set forth below is the maximum amount payable by County and constitutes a limitation upon County’s obligation to provide funding to Municipality for the Project. Municipality further acknowledges that subtotal amounts set forth below for the applicable phases and in the Funding Schedule (including as amended) are the maximum amounts payable for the applicable portions of the Project, and constitute limitations on County’s obligation to provide funding to Municipality for the Project.

Description	Not-To-Exceed Amounts
Phase 1: Construction (inclusive of CEI services and 5% contingency)	\$1,407,661.00
MAXIMUM FUNDING AMOUNT:	\$1,407,661.00

In no event shall County be liable to provide funding to Municipality in excess of the applicable amounts stated in the Funding Schedule or the Maximum Funding Amount, regardless of the basis for any claim or the basis for increased cost, including, without limitation, differing site conditions, delays, weather, or any other reason. If the actual costs of the Project exceed the amount County is obligated to fund per the Funding Schedule, as same may be amended pursuant to this Agreement, Municipality shall be solely responsible for funding any and all such additional amounts. Municipality is solely responsible for any and all costs to operate, support,

and maintain the Project unless otherwise agreed in writing by the Parties; County has no obligation to fund any costs related to the Project except as expressly stated in this Agreement.

5.5. Adjustments for Corridor Projects; Funding Withholding; Other Delayed Funding.

5.5.1. In order to avoid duplicative construction and unnecessary disruption of the local transportation network and community, the Parties shall cooperate in good faith to coordinate the timing of the Project with other projects that affect the same or nearby transportation elements, including, without limitation, other Surtax-Funded Projects and other County or State roadway projects (collectively, "Corridor Projects"). The Contract Administrator shall provide prompt notice to Municipality if County determines that the timing of the Project requires adjustment due to a Corridor Project. Upon receipt of such a notice, Municipality shall use best efforts to suspend any additional work on the Project pending an agreed adjustment to the Project Schedule, and the Parties shall cooperate to mutually approve an adjusted Funding Schedule (adjusted only as to timing, absent good cause as determined by Contract Administrator) and Project Schedule. County may withhold any otherwise scheduled funding until such adjustments are mutually approved by the Parties. To the extent some or all of the Project costs are modified as a direct result of a timing adjustment to accommodate a Corridor Project, such modified costs shall be addressed in an amendment to the Funding Schedule and, if necessary, an amendment to this Agreement.

5.5.2. If commencement or completion of a phase of the Project is delayed beyond its scheduled date by more than one (1) year, or work suspended for more than one (1) year, the Funding Schedule may be unilaterally adjusted as to timing (but not amount) by written notice issued by the Contract Administrator, after consultation with Municipality, to reflect the delay; any adjustment to the amount of funding for any phase in connection with the delay shall require an amended Funding Schedule in accordance with Section 5.3.

5.6. Overpayments; Refunds. Any funding provided by County under this Agreement for a Phase that exceeds the actual amounts expended by Municipality in accordance with this Agreement for that Phase shall be credited against the next invoice to County or refunded to County, as elected by County. Any funding provided by County under this Agreement that exceeds actual amounts paid by Municipality for the Project shall be promptly refunded to County upon Municipality's discovery of an overpayment, County's request for refund, or sixty (60) days after completion of the Project, whichever occurs first. For purposes of this calculation, any interest expense(s) incurred by Municipality are not an allowable cost. Any refunds, credits, liquidated damages, insurance proceeds (after payment of any applicable deductible), claim or litigation proceeds (after payment of attorneys' fees and costs), or other amounts received by or credited to Municipality by or on behalf of Contractor, Consultant, or any Subcontractor (collectively, "Proceeds") shall be either credited against future funding due from County under this Agreement or paid by Municipality to County within thirty (30) days after its receipt of the Proceeds, as elected by County. The total Proceeds amount credited or refunded

to County shall not exceed the total funding provided by County under this Agreement. Municipality shall promptly notify County of any amount of Proceeds received by or credited to Municipality, and of any claims filed or asserted relating to the Project. For unresolved claims or litigation, the Parties shall cooperate to ensure any Proceeds are first credited or repaid to the benefit of County before any other allocation.

5.7. Separate Accounting. Municipality shall deposit and maintain all funding received from any source for the Project in a segregated fund or account, which shall be subject to audit pursuant to Article 8. Any interest earned by Municipality on any funds provided under this Agreement shall be credited against the funding otherwise due from County under this Agreement and must be utilized by Municipality solely in accordance with the terms of this Agreement. Upon prior written approval by the Contract Administrator, Municipality may utilize other methods of separate accounting for the Project funds provided the accounting method permits a full and complete audit of the funds as required by Article 8.

5.8. Withholding by County. Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to ensure utilization of the funds in accordance with this Agreement, applicable law, and the Board-approved transportation surtax program. Failure of Municipality or the Project to comply with the Reporting Requirements or the Performance Metrics may also be a basis to withhold or limit future funding for the Project, as determined in the reasonable discretion of the Contract Administrator. The amount withheld shall not be subject to payment of interest by County. Upon written notice by County and except as expressly stated otherwise herein, payment may be withheld by County for the duration of any failure of Municipality to comply with a term, condition, or requirement of this Agreement; County shall promptly pay the amount withheld to Municipality when Municipality's noncompliance with the applicable terms and conditions of this Agreement is cured to the reasonable satisfaction of Contract Administrator.

5.9. Final Invoice and Reconciliation. Unless otherwise stated in the Funding Schedule or approved by the Contract Administrator, Municipality must submit the final invoice to County no later than one hundred twenty (120) days after the completion of the Project. The final invoice must be accompanied by a complete summary of all expenses incurred and all amounts paid for the Project, all funding, Proceeds, interest, or other amounts received relating to the Project, and any unpaid invoices, amounts still owing, disputed charges, or other unresolved issues relating to the Project that may impact the financial accounting of the Project (collectively, the "Final Reconciliation"). Upon request by the Contract Administrator, Municipality shall provide any backup or additional documentation requested relating to the Final Reconciliation; if County or Municipality identifies any error or omission in the Final Reconciliation, Municipality shall resubmit a corrected final invoice and corrected Final Reconciliation. County shall pay the correct final invoice after review and approval of the Final Reconciliation.

ARTICLE 6. TRANSPORTATION SURTAX PROJECT COORDINATION AND PARTICIPATION

6.1. Reporting Requirements. Unless waived in writing by the Contract Administrator, Municipality shall comply with the Reporting Requirements set forth in **Exhibit C**. In addition,

Municipality shall provide written reports to the Contract Administrator consisting of the following information as of the date of the report, with monthly information provided within thirty (30) days after the end of the applicable month, quarterly information provided within forty-five (45) days after the end of the applicable quarter, and annual information provided within one hundred eighty (180) days after the end of the fiscal year:

6.1.1. Quarterly Report on Expenditures: For both total to date and total for the applicable quarter, the total funds received from any funding source for the Project (itemized by funding source) and total funds (by funding source) expended to date for the Project;

6.1.2. Monthly Report on Project Schedule: The updated Project Schedule, summary of progress during the applicable quarter, and any adjustments to the Project Schedule (including all approved adjustments and pending requests for adjustments);

6.1.3. Monthly report on Material Changes or Impacts: All material changes to the Project, the Project Schedule, or any other aspect of the Project that may impact the cost of the Project or the ability of the Project to achieve the intended goals or purposes; and

6.1.4. Annual Audit Reports: On an annual basis, copies of Municipality's most recent annual financial reporting packages, reports, or other information required to be submitted in accordance with Section 215.97, Florida Statutes. A copy of Municipality's most recent single audit complies with this requirement.

6.2. Performance Metrics. Municipality must ensure that the quality, progress, and nature of the Project strictly comply with the Performance Metrics stated in Exhibit C. The Contract Administrator may modify the Performance Metrics for the Project at any time with the written approval of the Project Manager. In addition to the reporting required pursuant to Section 6.1 above, Municipality shall provide written reports to the Contract Administrator on at least an annual basis, no later than ninety (90) days after the end of the fiscal year, documenting the Project's compliance with the applicable Performance Metrics. The Contract Administrator or designee will provide technical assistance and support, as may be reasonably requested by Municipality, and shall make available to Municipality a centralized repository of relevant, available metrics and data.

6.3. Permitting for Surtax-Funded Projects. To decrease public inconvenience and to facilitate the expeditious and efficient completion of Surtax-Funded Projects, for any Surtax-Funded Project that is performed by County and is in whole or in part within the geographical boundaries of Municipality, Municipality shall waive, to the full extent permissible under applicable law, all municipal permitting requirements, except to the extent of any portion of the work performed by County that will be owned, operated, and maintained by Municipality. The waiver shall include, but not be limited to, the requirements of permit application, permit issuance, inspections, and permitting fees. County shall be responsible for ensuring adequate plan review, inspections, and compliance with State and County standards for work in the public right of way.

County shall waive, to the full extent permissible under applicable law, all County permitting fees for municipal Surtax-Funded Projects.

6.4. Road Closures. Municipality shall institute and comply with a cooperative notification program that ensures County is promptly notified and promptly provided with data reasonably requested by County regarding all municipal roads that are closed for any reason, including but not limited to the Project, other construction, or flooding, in a format prescribed by County. Providing Municipality consistently utilizes the cooperative notification program established by County and promptly cures any nonperformance upon notice by County, nonrecurring or isolated incidents of failure by Municipality to timely notify as required by this Section 6.4 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.5. Branding and Marketing. At County's request, Municipality shall participate in reasonable branding and marketing in the form and content prescribed by County, including, but not limited to, signage prominently acknowledging the surtax funding source of Surtax-Funded Projects, utilizing County-approved wording, logo, or other imagery, which branding and marketing will acknowledge the project contributions of County and Municipality. The costs for all branding and marketing requested by County pursuant to this Section 6.5 shall be fully funded by County. Provided Municipality cures any nonperformance within thirty (30) days after notice by County, nonrecurring or isolated incidents of failure by Municipality to comply with this Section 6.5 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.6. Data Collection and Sharing. To the extent requested by County, Municipality shall ensure the Project includes incorporation and placement of sensors or other devices on municipal roads, rights of way, properties, and assets for County-approved applications for mobility-related data collection purposes, provided such placement shall not unreasonably interfere with the aesthetics or Municipality's use of such roads, rights of way, properties, or assets. The costs for any such incorporation and placement requested by County shall be funded by County. Municipality shall ensure the collection of data includes and is consistent with the scope, type, frequency, quantity, and format requested by County in order to facilitate countywide collection and utilization of transportation data. For the useful life of the Project, to the extent requested by County, Municipality shall provide County any and all access to such data as may be requested by County, including recurring or real-time access or periodic download. Provided Municipality cures any nonperformance within thirty (30) days after notice by County, nonrecurring or isolated incidents of Municipality's failure to comply with this Section 6.6 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.7. Conflict of Interest.

6.7.1. Municipality represents and agrees that it has not contracted, and will not contract during the term of this Agreement, with the MPO for the MPO to perform any of the following services (collectively, the "Contracting Prohibitions"):

- 6.7.1.1. Any design, construction, oversight, or management services relating to any Surtax-Funded Project or any proposed project for which transportation surtax funding is being or will be sought;
 - 6.7.1.2. Any planning, oversight, or reporting services relating to any receipt by Municipality of community shuttle surtax funding; or
 - 6.7.1.3. Any grant writing or grant consultation services in connection with any Surtax-Funded Project (or proposed Surtax-Funded Project).
- 6.7.2. The foregoing Contracting Prohibitions:
- 6.7.2.1. Shall not apply to any state- or federally-mandated services provided by the MPO for which services the MPO does not receive any compensation from Municipality beyond Municipality's annual contribution to the MPO;
 - 6.7.2.2. May be waived by the County Administrator in connection with any Surtax-Funded Project for which the County Administrator determines, in his or her sole discretion, that such waiver is in the best interest of Broward County for reasons including, but not limited to, that such waiver would permit the performance of services reasonably necessary to obtain significant state or federal matching funds in connection with any project or proposed project. No such waiver shall be effective unless approved by the County Administrator in writing; and
 - 6.7.2.3. Do not prohibit or in any way impede the ability of Municipality to contract with any entity other than the MPO for transportation planning services whether or not such services are in connection with any Surtax-Funded Project.

The Parties agree that any violation of the Contracting Prohibitions will constitute a material breach of this Agreement which, in addition to all other remedies available to County under this Agreement, would permit County to terminate this Agreement, withhold all funds otherwise payable to Municipality under this Agreement, and require Municipality to repay County in full for any funds previously paid by County under this Agreement.

6.8. Sale, Transfer, or Disposal of Surtax-Funded Property. Municipality shall not sell or otherwise transfer or dispose of its title, rights, or interests, or any portion thereof, in real property, facilities, or equipment, funded in any part by County under this Agreement, without prior written approval from County. If a sale, transfer, or disposal occurs in violation of this section, unless otherwise agreed in writing by the Parties, Municipality shall pay County, within ninety (90) days after the sale, transfer, or disposal, an amount equal to the greater of County's

share of the fair market value or the straight line depreciated value of the improvements plus land value. "County's share of the fair market value" as used herein means the percentage of surtax funding in the Project multiplied by the best obtainable price for the item, and the resulting product then reduced by reasonable sales costs. If the property has never been used for the intended purpose of the Project, Municipality shall pay the greater of County's share of the fair market value or the entire amount of surtax funding provided for the Project.

6.9. Affirmation of MPO Prioritization and Ranking Process. Municipality acknowledges that the prioritization and ranking process of municipal capital projects for fiscal year 2020 was completed in compliance with all applicable obligations of County and the MPO; and was informed by each project's ability to alleviate traffic congestion and improve connectivity, as well as shovel-readiness, construction work planned in the vicinity of a proposed project, corridor delivery timing, and other existing conditions that allow surtax revenues to be utilized responsibly, efficiently, and with the least interruption to residents and businesses. Municipality hereby waives and releases any and all claims it has or may have that accrued at any time prior to the effective date of this Agreement, which claims, in any way, relate to, result from, or are in connection with the prioritization and ranking process of municipal capital projects for fiscal year 2020 or the County's funding decisions related thereto. Municipality agrees and stipulates that the MPO prioritization and ranking process for fiscal year 2020 was proper and consistent with the applicable interlocal agreements and that the County is not, as of the effective date of this agreement, in breach or default of any provision of any applicable interlocal agreement relating in any way to expenditure of transportation surtax proceeds.

ARTICLE 7. INDEMNIFICATION

Municipality shall indemnify, hold harmless, and defend County and all of County's current, past, and future officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Municipality, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Municipality shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Contract Administrator and the County Attorney, any sums due Municipality under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

ARTICLE 8. AUDITING

8.1. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Municipality, Contractor, Consultant, and Subcontractors (the “Audited Entities”) that are related to the Project or this Agreement (the “Contract Records”). Audits, reviews, monitoring, inspections, and investigations conducted pursuant to this Agreement may include, but are not limited to, on-site visits by County staff, interviews of staff of any of the Audited Entities, review of performance and financial reports, determining and monitoring appropriate corrective action, and issuing management letters on deficiencies or weaknesses identified. Audited Entities shall fully comply and cooperate with any auditing and monitoring activities deemed appropriate by County.

Audited Entities shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request by the Contract Administrator to do so, Audited Entities shall make same available in written form at no cost to County.

Contract Records include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers, and memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance relating to the Project. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations, or performance relating to the Project of any of the Audited Entities.

Audited Entities shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to the Project or this Agreement until the later of five (5) years after expiration or termination of this Agreement, resolution of any audit findings, or as otherwise required by law. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County) or the Oversight Board. The Project and all expenditures relating to the Project shall be subject to the Oversight Board’s review, critique, and analysis for the duration of the Project.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County’s disallowance and recovery of any payment made or based upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County’s audit shall be reimbursed to County by Municipality in addition to any required adjustments for the overcharges. Any adjustments or payments due as a result

of such audit or inspection shall be made by Municipality to County within thirty (30) days after presentation of County's findings to Municipality.

Municipality shall ensure that the requirements of this section are included in all agreements with any other Audited Entity. Municipality shall further include in its contract with Contractor and its contract with Consultant the following provision:

"If an audit inspection or examination in accordance with this provision discloses overpricing or overcharges to Municipality (of any nature) by the contractor or the contractor's subcontractors in excess of five percent (5%) of the total contract billings reviewed, the reasonable actual cost of any audit conducted by or on behalf of Municipality, Broward County, or the Independent Transportation Surtax Oversight Board shall be reimbursed by contractor to the Municipality or Broward County, as applicable, along with any required adjustments for the overpricing or overcharges. Any adjustments or payments that must be made as a result of any such audit or inspection of the contractor's invoices or records shall be made within a reasonable amount of time (not to exceed 30 days) after presentation of the audit findings to contractor."

8.2. Performance Audit. The Project, and all funding received, maintained, or expended by Municipality for the Project, shall be subject to audits and reviews by the Oversight Board at its expense (and subject to reimbursement pursuant to this article) for the duration of the Project and continuing until five (5) years after the later of completion of the project, expiration or termination of this Agreement, or resolution of any audit findings. Municipality shall fully cooperate and provide any and all requested Contract Records as may be requested by the Oversight Board. The Project and all funds received, maintained, or expended relating to the Project shall be subject to the Oversight Board's review, critique, and analysis for the duration of the Project.

ARTICLE 9. TERMINATION

9.1. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within thirty (30) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated by the Board upon sixty (60) days' prior written notice if the Board determines that the Project cannot be funded with surtax funding under applicable law, including Section 212.055, Florida Statutes. This Agreement may be immediately terminated by written notice by the County Administrator if the transportation surtax is determined by a court of competent jurisdiction to be invalid, void, or illegal.

9.2. This Agreement may be terminated for cause by County for reasons including, but not limited to, any of the following:

9.2.1. Inability of Municipality, including through Contractor or Consultant, to perform or complete the Project in compliance with this Agreement, including the Project

Schedule (including any extensions approved by Contract Administrator, approval of which shall not be unreasonably withheld);

9.2.2. Repeated submission (whether negligent or intentional) for payment of false or incorrect invoices;

9.2.3. Fraud, misrepresentation, or material misstatement in the performance of this Agreement or the Project by Municipality, Contractor, or Consultant;

9.2.4. Contractor's or Consultant's act or omission that violates any applicable requirement of Section 1-81, Broward County Code of Ordinances; or

9.2.5. Utilization of the funding provided by County under this Agreement in a manner that violates applicable law or for uses or purposes that are not permitted uses for transportation surtax funds under Section 212.055, Florida Statutes.

9.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.

9.4. If this Agreement is terminated by County, Municipality shall be paid from proceeds of the surtax levied pursuant to Section 212.055, Florida Statutes, if funding is available, for any work on the Project properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable.

9.5. In addition to any right of termination stated in this Agreement, County and Municipality shall be entitled to seek any and all available remedies, whether stated in this Agreement or otherwise available at law or in equity, all such remedies being cumulative.

9.6. Municipality may terminate this Agreement upon thirty (30) days' prior written notice to County if Municipality determines not to proceed with the Project and either (a) the written notice of termination is provided prior to Municipality's receipt of any funding from County under this Agreement, or (b) prior to the effective date of termination, Municipality returns all funding received from County under this Agreement, including any interest earned by Municipality on any funds provided by County under this Agreement.

ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE

10.1. No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Municipality shall include the foregoing or similar language in its contracts with Contractor and Consultant, and shall require inclusion of the foregoing or similar language in their contracts with Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

10.2. Unless otherwise approved in advance in writing by County's Director of Office of Economic and Small Business Development ("OESBD"), Municipality shall comply with all applicable requirements of the County Business Opportunity Act, Section 1-81, et seq., Broward County Code of Ordinances, in the award and administration of any contract or agreement regarding the Project. Failure by Municipality to carry out any of the requirements of this article shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or exercise any other remedy provided under this Agreement, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

10.3. Unless otherwise stated in advance in writing by County's Director of OESBD, Municipality will meet the required CBE goal for the Project by utilizing (or requiring the utilization of) CBE firms for at least thirty percent (30%) of total Project costs, except that no CBE commitment shall apply to agreements that are subject to other participation goals (e.g., federal DBE program or SBE reserves), agreements that are expressly exempt from the County's Procurement Code, agreements that are otherwise ineligible by state or federal law, and agreements to which goals are not assigned by the County (e.g., sole source, sole brand, and emergency agreements) (the "Commitment").

10.4. Each CBE firm utilized to meet the Commitment must be certified by OESBD. Municipality shall inform County immediately when a CBE firm is not able to perform or if Municipality believes the CBE firm should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Municipality to substitute the CBE firm with another CBE firm, as applicable. Whenever a CBE firm is terminated for any reason, Municipality shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE firm in order to meet the CBE goal, unless otherwise provided in this Agreement or agreed in writing by the Parties. Such substitution shall not be required if the termination results from modification of the Project and no CBE firm is available to perform the modified Project; in which event, Municipality shall notify County, and OESBD may adjust the Commitment by written notice to Municipality. Municipality shall not terminate a CBE firm for convenience without County's prior written consent, which consent shall not be unreasonably withheld.

10.5. Municipality shall include the following provision in its contract with Contractor:

"The parties stipulate that if Contractor fails to meet the CBE utilization obligation in the Interlocal Agreement between Municipality and Broward County (the "Commitment"), the damages to Broward County and Municipality arising from such failure are not readily ascertainable at the time of contracting. If Contractor fails to meet the Commitment and Broward County determines, in the sole discretion of the OESBD Program Director, that Contractor failed to make Good Faith Efforts (as defined in Section 1-81, Broward County Code of Ordinances) to meet the Commitment, Contractor shall pay Municipality liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Contractor failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount excluding costs and reimbursable expenses.

An example of this calculation is stated in Section 1-81.7, Broward County Code of Ordinances. As elected by Broward County, such liquidated damages amount shall be either credited against any amounts due Contractor from Municipality, or must be paid by Municipality to Broward County within thirty (30) days after written demand by Broward County. Any failure to meet the Commitment attributable solely to force majeure, changes to the Project, or inability to substitute a CBE Subcontractor where the OESBD Program Director has determined that such inability is due to no fault of Contractor, shall not be deemed a failure by Contractor to meet the Commitment.”

10.6. Municipality shall require Contractor and Consultant to provide written monthly reports to the Municipality and the Contract Administrator no later than ten (10) business days after the end of the month regarding Contractor’s and Consultant’s compliance with the Commitment stated in this article. In addition, Municipality shall require Contractor and Consultant to allow County to engage in onsite reviews to monitor Contractor’s and Consultant’s progress in achieving the Commitment and maintaining the applicable contractual and CBE obligations.

ARTICLE 11. MISCELLANEOUS

11.1. Contract Administrator Authority; Dispute Resolution; Escalation. The Contract Administrator is authorized to coordinate and communicate with Municipality to manage and supervise the performance of this Agreement. Any determination by the Contract Administrator that this Agreement authorizes the Contract Administrator to make shall be binding on the Parties. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, Broward County Code of Ordinances, or Broward County Administrative Code, the Contract Administrator may exercise any ministerial authority in connection with the day-to-day management of this Agreement. In the event of a dispute regarding the performance of this Agreement, both Parties stipulate and agree to expedited dispute resolution procedures as follows: if either Party provides notice of a dispute that the respective staff have failed to resolve despite diligent good faith efforts, the Contract Administrator and the Project Manager (or other appropriate representative(s) designated by County or Municipality, respectively) shall meet in person or via videoconference within ten (10) business days and attempt in good faith to resolve the dispute and report potential resolutions to their respective governing bodies for consideration; if either Party thereafter provides written notice of impasse, the Mayors or Vice-Mayors of the County and Municipality shall meet in person or via videoconference within ten (10) business days and attempt in good faith to resolve the dispute and report potential resolutions to their respective governing bodies for consideration; any resolution must be approved by the governing bodies of both Parties to be effective. If either Party thereafter provides written notice of impasse, either Party may proceed to seek any available judicial remedies and the Parties agree and stipulate that the requirements of Chapter 164 shall be deemed fully met and both Parties waive and agree not to assert any defense based upon failure to fully comply with the intergovernmental dispute resolution proceedings otherwise required under Chapter 164.

11.2. Public Records. The Parties agree and stipulate that both Parties are subject to Florida public records laws and shall fully comply with same. At the request of County, Municipality shall, in accordance with applicable law, respond to any request for public records received by County relating to the Project. Any other public records request shall be responded to by the receiving party. Each Party shall cooperate upon request by the other Party and provide any requested records to enable the Party to respond to a public records request.

Any material submitted to County that Municipality, Contractor, or Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Municipality, Contractor, or Consultant, as applicable, must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to County for records designated by Municipality, Contractor, or Consultant as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Municipality, Contractor, or Consultant, as applicable. Municipality shall indemnify and defend, and shall require Contractor and Consultant to indemnify and defend, County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a public records request by a third party.

11.3. Independent Contractor. Nothing in this Agreement constitutes or creates a partnership, joint venture, or any other relationship between the Parties or any Party and Contractor, Consultant, or any Subcontractor. Neither Party nor its agents shall act as officers, employees, or agents of the other Party. Neither Party shall have the right to bind the other Party to any obligation not expressly undertaken by that Party under this Agreement.

11.4. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County or Municipality, nor shall anything included herein be construed as consent by County or Municipality to be sued by third parties in any matter arising out of this Agreement. County and Municipality are subdivisions of the State of Florida, as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of their respective employees pursuant to Section 768.28, Florida Statutes.

11.5. Third-Party Beneficiaries. Neither Municipality nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.6. Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County Administrator
Attn: Monica Cepero
115 South Andrews Avenue, Room 409
Fort Lauderdale, Florida 33301
Email address: mcepero@broward.org

With a copy to:

Broward County Attorney's Office:
Attn: Nathaniel A. Klitsberg
115 South Andrews Avenue, Room 423
Fort Lauderdale, Florida 33301
Email address: nklitsberg@broward.org

FOR MUNICIPALITY:

City of Oakland Park
City Manager's Office
Attn: David Hebert
3650 NE 12th Ave
Oakland Park, FL 33334
davidh@oaklandparkfl.gov

With a copy to:

GOREN, CHEROF, DOODY & EZROL, P.A.
Oakland Park City Attorney
Attn: DJ Doody
3099 East Commercial Boulevard
Suite 200
Fort Lauderdale, FL 33308
Email address: ddoody@cityatty.com

11.7. Assignment. Neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Municipality without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately

terminate this Agreement, in addition to any other remedies available to County at law or in equity, all such remedies being cumulative.

11.8. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. County's or Municipality's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.9. Compliance with Laws. Municipality and the Project must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

11.10. Representation of Authority. The Parties represent and warrant that this Agreement constitutes the legal, valid, binding, and enforceable obligation of each Party, that execution of this Agreement is within each Party's legal powers, and that each individual executing this Agreement is duly authorized by all necessary and appropriate action to do so on behalf of that Party and does so with full legal authority.

11.11. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.12. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

11.13. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

11.14. Priority of Provisions. Unless otherwise expressly stated in this Agreement, if there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any

provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect. In the event of a conflict between this Agreement and the Transportation System Surtax Interlocal Agreement, executed by County on August 29, 2018, as amended, the provisions of this Agreement shall prevail and be given effect.

11.15. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, EACH OF MUNICIPALITY AND COUNTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

11.16. Amendments. No modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of County and Municipality.

11.17. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

11.18. Payable Interest

11.18.1. Payment of Interest. County shall not be liable to pay any interest to Municipality for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Municipality waives, rejects, disclaims, and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

11.18.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.19. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached exhibits are incorporated into and made a part of this Agreement.

11.20. Prevailing Wage Requirement. If construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Municipality as a result of this Agreement, Section 26-5, Broward County Code of Ordinances, as amended from time to time, shall be deemed to apply to such construction work. Municipality shall ensure Contractor fully complies with the requirements of such ordinance and satisfies, complies with, and completes the required forms as set forth in the Surtax-Funded Projects Form Construction Contract or such other contract as is approved pursuant to this Agreement.

11.21. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physical or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.22. Living Wage Requirement. To the extent Contractor is a “covered employer” within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Municipality shall include in its written agreement with Contractor that Contractor agrees to and shall pay to all of its employees providing “covered services,” as defined in the ordinance, a living wage as required by such ordinance, and shall fully comply with the requirements of such ordinance, and that Contractor shall ensure all of its Subcontractors that qualify as “covered employers” fully comply with the requirements of such ordinance.

11.23. Workforce Investment Program. Municipality acknowledges the Broward Workforce Investment Program, Section 19.211, Broward County Administrative Code (“Workforce Investment Program”). Municipality shall include in its contract with Contractor the requirements of the Workforce Investment Program and Contractor’s agreement to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal as set forth in the Workforce Investment Program, including by (a) publicly advertising exclusively with CareerSource Broward for at least five (5) business days any vacancies that are the direct result of this Agreement (whether those vacancies are with Municipality or its Subcontractors) and using good faith efforts to interview any qualified candidates referred under the Workforce Investment Program, and (b) using good faith efforts to hire Qualifying New Hires, as defined by the Workforce Investment Program, for at least fifty percent (50%) of the vacancies that are the direct result of this Agreement.

11.24. Polystyrene Food Service Articles. Municipality shall include in its contract with Contractor the requirements of the prohibition on the use or sale of expanded polystyrene products (e.g., Styrofoam) or single-use plastic beverage straws or stirrers on County property as set forth in Section 27.173, Broward County Administrative Code.

11.25. Survivability. Notwithstanding any expiration or termination of this Agreement, the following provisions shall survive expiration and termination: Section 3.2 (Municipal Responsibility for the Project); Section 5.6 (Overpayments; Refunds); Article 6 (Transportation Surtax Project Coordination and Participation); Article 7 (Indemnification); Article 8 (Auditing);

Section 11.2 (Public Records); Section 11.15 (Law, Jurisdiction, Venue, Waiver of Jury Trial); and Section 11.18 (Payable Interest).

11.26. Approvals. To be effective, any approval under this Agreement made by or on behalf of the County, County Administrator, Contract Administrator, Project Manager, or other representative of either Party must be in writing.

(The remainder of this page is intentionally blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Board action on the 25th day of August, 2020, Agenda Item No. 86, and Municipality, signing by and through its Mayor duly authorized to execute same.

COUNTY

BROWARD COUNTY, by and through its County Administrator

By _____
County Administrator

____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
115 South Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

By _____
Gavin P. Rynard (Date)
Assistant County Attorney

By _____
Nathaniel A. Klitsberg (Date)
Transportation Surtax General Counsel

NAK/gpr
Municipal Interlocal Agreement - BC-OAKLAND-FY2020-00002
5/8/2024
#1103833.01

**INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF OAKLAND PARK
FOR SURTAX-FUNDED MUNICIPAL TRANSPORTATION PROJECT: CONSTRUCTION OF A
STORMWATER PUMP STATION AND PIPELINE IMPROVEMENTS IN THE NORTH ANDREWS
GARDEN NEIGHBORHOOD (BC-OAKLAND-FY2020-00002)**

MUNICIPALITY

ATTEST:

CITY OF OAKLAND PARK

CITY CLERK

By: _____
CITY MAYOR

Print Name

_____ day of _____, 20__

I HEREBY CERTIFY that I have approved
this Agreement as to form and legal
sufficiency subject to execution by the parties:

City Attorney

EXHIBIT A
Project Description and Project Schedule

1. Project: As further detailed in the plans and specifications (“Summary of Work”) attached hereto as Attachment 1 to this Exhibit A and the City’s signed and sealed construction documents dated November 15, 2023, incorporated by reference, this Project includes the following: the construction of a stormwater pump station and pipeline improvements in the North Andrews Avenue Garden neighborhood in Broward County, Florida.

The following items are not eligible for transportation surtax funding:

- Utility system adjustments (sewer laterals, water main connections).
- Increases to the stormwater system to accommodate a drainage area greater than the eligible size and improvements to address runoff from private roads and/or developments.

All costs associated with work ineligible for surtax funding must be adequately and separately itemized and paid by Municipality with non-transportation surtax funds.

2. Deliverables:

Municipality shall provide quantifiable, measurable, and verifiable units of Deliverables as set forth below. Each Deliverable must specify the required minimum level of work to be performed and the criteria for evaluating successful completion of the Deliverable.

DELIVERABLES:

No.	Description	Duration/Deadline	Acceptance Criteria
0	Municipality’s execution of ILA	June 5, 2024	ILA executed by Municipality
1	Project Construction Advertising Bid, Award, Construction Contract execution	August 7, 2024	Approved Solicitation; Fully Executed Construction Agreement
2	Notice to Proceed (NTP) and Commencement	September 1, 2024	NTP Issued by Municipality
2a	Deliverable 1: Project Mobilization	September 8, 2024	Inspection Logs from City Engineer/Public Works Director/CEI Consultant
2b	Deliverable 2: Complete Site Excavation and Initial Construction	December 8, 2024	Inspection Logs from City Engineer/Public Works Director/CEI Consultant

2c	Deliverable 3: Complete Pump Station Construction	March 8, 2025	Inspection Logs from City Engineer/Public Works Director/CEI Consultant
2d	Deliverable 4: Completion of Pipeline Connections/ Initiation of Pump Station Startup	May 8, 2025	Inspection Logs from City Engineer/Public Works Director/CEI Consultant
3	Substantial Completion	May 8, 2025	Includes punchlist items, final inspections, and non-substantial work items
4	Final Completion	May 22, 2025	Final Certification from City Engineer/Public Works Director and BCTE Approval Project Certified/Final Payment Issued

3. Project Schedule:

Description	Deadline
County's execution of Project Specific ILA	June 12, 2024
Bid Advertisement	June 19, 2024
Bid Award and Construction Contract Execution	August 7, 2024
Notice to Proceed	September 1, 2024
Substantial Completion	May 8, 2025
Final Project Completion	May 22, 2025

ATTACHMENT 1 TO EXHIBIT A

ATTACHMENT 1 TO EXHIBIT A

SECTION 01010

SUMMARY OF WORK

PART 1 -- GENERAL

1.01 THE REQUIREMENT

- A. The Work to be performed under this Contract shall consist of furnishing and installation of all tools, equipment, materials, supplies, manufactured articles, transportation, and services, including fuel, power, water, and essential communications for the performance of all labor, work and/or other operations as required for the fulfillment of the Contract in strict accordance with the Contract Documents. The Work shall be complete, and all work, materials, and services not expressly indicated or called for in the Contract Documents, which may be necessary for the complete and proper construction of the Work in good faith, shall be provided by the CONTRACTOR as though originally so indicated, at no increase in cost to the CITY.
- B. The CONTRACTOR shall perform all work required for such construction in accordance with the Contract Documents and subject to the terms and conditions of the Contract, complete and ready for use.
- C. The principal features of the Work to be performed under this Contract include site, civil, mechanical, electrical, instrumentation and structural, maintenance of traffic and all related work associated with the North Andrews Garden Stormwater Pump Station & Pipeline Improvements. This work includes installation of stormwater collection and transmission infrastructure, including catch basins, inlets, stormwater gravity piping, manholes, utility locations, the installation of all tie-ins, roadway replacement, pavement restoration, sidewalk replacement, sod restoration, tree protection, tree relocation, and related work. Also included in the Contract is all material, labor, and equipment for demolition, disposal, maintenance of operations during construction, erosion and sedimentation control, removal and disposal of contaminated soils and groundwater, startup and testing of the new facilities, operation and maintenance manuals, record documents, test equipment and all other appurtenant and miscellaneous work required for completion of the work, in accordance with the Contract Documents and not included in other bid items.

1.02 CONTRACT DOCUMENTS

- A. The Work to be done is shown on the Drawings entitled North Andrews Garden Stormwater Pump Station & Pipeline Improvements. The numbers and titles of the Drawings appear on the index sheets of the Drawings. All drawings so enumerated shall be considered an integral part of the Contract Documents as defined herein.
- B. Certain Document Sections refer to Divisions of the Contract Specifications. Sections are each individually numbered portions of the Specifications (numerically) such as 01530, 15177, etc. The term Division is used as a convenience term meaning all Sections within a numerical grouping. For example, Division 2 would thus include Sections 02000 through 02999 and would mean all site work specifications.

ATTACHMENT 1 TO EXHIBIT A

- C. CONTRACTOR shall note that if there is a conflict between any of the Contract Documents the more stringent requirement shall apply and shall be furnished at no additional cost to the CITY.

1.03 GENERAL ARRANGEMENT

- A. Drawings indicate the extent and general arrangement of the work. If any departures from the Drawings are deemed necessary by the CONTRACTOR to accommodate the materials and equipment he proposes to furnish, details of such departures and reasons therefore shall be submitted as soon as practicable to the CITY for approval. No such departures shall be made without the prior written approval of the CITY. Approved changes shall be made without additional cost to the CITY for this work or related work under other Contracts of the Project.
- B. The specific equipment proposed for use by the CONTRACTOR on the project may require changes in structures, auxiliary equipment, piping, electrical, mechanical, controls or other work to provide a complete satisfactory operating installation. The CONTRACTOR shall submit to the CITY, for approval, all necessary Drawings and details showing such changes to verify conformance with the overall project structural and architectural requirements and overall project operating performance. The Bid Price shall include all costs in connection with the preparation of new drawings and details and all changes to construction work to accommodate the proposed equipment, including increases in the costs of other Contracts.

1.04 CONSTRUCTION PERMITS AND ENCROACHMENTS

- A. The CONTRACTOR shall obtain, keep current and pay all fees for any necessary construction permits from those authorities, agencies, or municipalities having jurisdiction over land areas, utilities, or structures which are located within the Contract limits and which will be occupied, encountered, used, or temporarily interrupted by the CONTRACTOR'S operations unless otherwise stated. Record copies of all permits shall be furnished to the ENGINEER and the CITY.
- B. When construction permits are accompanied by regulations or requirements issued by a particular authority, agency or municipality, it shall be the CONTRACTOR'S responsibility to familiarize himself and comply with such regulations or requirements as they apply to his operations on this Project.
- C. Agencies requiring permits for this project may include, but are not limited to:
 - 1. City of Oakland Park
 - 2. Broward County Traffic Engineering Department
 - 3. South Florida Water Management District
 - 4. Florida Department of Environmental Protection
 - 5. Broward County Resilient Environment Department formerly known as the Broward County Environmental Protection and Growth Management Department – Environmental Review

ATTACHMENT 1 TO EXHIBIT A

6. Florida Department of Transportation

1.05 ADDITIONAL ENGINEERING SERVICES

- A. In the event that the ENGINEER is required to provide additional engineering services as a result of substitution of materials or equipment which are not "or equal" by the CONTRACTOR, or changes by the CONTRACTOR in dimension, weight, power requirements, etc., of the equipment and accessories furnished, or if the ENGINEER is required to examine and evaluate any changes proposed by the CONTRACTOR for the convenience of the CONTRACTOR, then the ENGINEER'S charges in connection with such additional services shall be charged to the CONTRACTOR by the CITY.
- B. Structural design shown on the Contract Drawings is based upon typical weights for major items of equipment as indicated on the Contract Drawings and specified. If the equipment furnished differs from that specified in the Contract Documents such that actual weight exceeds the weight of specified equipment, the CONTRACTOR shall assume the responsibility for all costs of redesign and for any construction changes required to accommodate the equipment furnished, including the ENGINEER'S expenses in connection therewith, provided that the original weight assumptions were correct.
- C. In the event that the ENGINEER is required to provide additional engineering services as a result of CONTRACTOR'S errors, omissions, or failure to conform to the requirements of the Contract Documents, or if the ENGINEER is required to examine and evaluate any changes proposed by the CONTRACTOR solely for the convenience of the CONTRACTOR, then the ENGINEER'S charges in connection with such additional services shall be charged to the CONTRACTOR by the CITY and shall be deducted from monies due the CONTRACTOR.

1.06 ADDITIONAL EXPENSES

- A. In the event the Work of this Contract is not completed within the time set forth in the Contract or within the time to which such completion may have been extended in accordance with the Contract Documents, the additional Owing or inspection charges incurred by the CITY may be charged to the CONTRACTOR and deducted from the monies due him. Extra work or supplemental Contract work added to the original Contract, as well as extenuating circumstances beyond the control of the CONTRACTOR, will be given due consideration by the CITY before assessing engineering and inspection charges against the CONTRACTOR.
- B. Charges for additional CITY'S expenses shall be independent of any liquidated damages assessed in accordance with the Contract.

1.07 TIME OF WORK

- A. Unless otherwise specifically permitted, the normal time of work under this Contract is limited to eight (8) hours per day, 40 hours per week, and shall generally be between the hours noted in the Contract Documents, Monday through Friday. Work beyond these hours or on EN holidays will result in additional expense to the CITY. Any expenses and/or damages arising from the CONTRACTOR'S operations beyond the hours and days specified above shall be borne by the CONTRACTOR. This provision does not apply to

ATTACHMENT 1 TO EXHIBIT A

shut down operations required by construction sequencing and constraints to maintain the existing facilities in operation. The CONTRACTOR may elect to work beyond these hours or on holidays or weekends provided that all costs incurred by the CITY for additional engineering shall be borne by the CONTRACTOR and approval has been obtained from the CITY. The CITY shall deduct the cost of additional engineering costs and overtime from monies due the CONTRACTOR.

- B. If it shall become imperative to perform work at night, weekends or holidays the CITY shall be informed in writing a reasonable time in advance of the beginning of such work (minimum of 10 days, except in an emergency situation as determined by the CONTRACTOR). Temporary lighting and all other necessary facilities for performing and inspecting the work shall be provided and maintained by the CONTRACTOR.
- C. Unless otherwise specifically permitted, all work that would be subject to damage shall be stopped during inclement, stormy weather. Only such work as will not suffer injury to workmanship or materials will be permitted. CONTRACTOR shall carefully protect his work against damage or injury from the weather.

1.08 SURVEYS AND LAYOUT

- A. All work under this Contract shall be constructed in accordance with the lines and grades shown on the Drawings or as directed by the ENGINEER. Elevation of existing ground and appurtenances are believed to be reasonably correct but are not guaranteed to be absolute and therefore are presented only as an approximation. Any error or apparent discrepancy in the data shown or omissions of data required for accurately accomplishing the stake out survey shall be referred immediately to the ENGINEER for interpretation or correction.
- B. All survey work for construction control purposes shall be made by the CONTRACTOR at his expense. The CONTRACTOR shall provide a Florida Licensed Surveyor as Chief of Party, competently qualified employees, all necessary instruments, stakes, and other material to perform the work.
- C. CONTRACTOR shall establish all baselines for the location of the principal component parts of the work together with a suitable number of bench marks and batter boards adjacent to the work. Based upon the information provided by the Contract Drawings, the CONTRACTOR shall develop and make all detail surveys necessary for construction, including slope stakes, batter boards, stakes for all working points, lines and elevations.
- D. CONTRACTOR shall have the responsibility to carefully preserve the bench marks, reference points and stakes, and in the case of destruction thereof by the CONTRACTOR or resulting from his negligence, the CONTRACTOR shall be charged with the resulting expense and damage and shall be responsible for any mistakes that may be caused by the unnecessary loss or disturbance of such bench marks, reference points and stakes. CONTRACTOR shall provide a signed and sealed affidavit by his surveyor stating that they have verified all bench marks.
- E. Existing or new control points, property markers and monuments that will be or are destroyed during the normal causes of construction shall be reestablished by the CONTRACTOR and all reference ties recorded therefore shall be furnished to the

ATTACHMENT 1 TO EXHIBIT A

ENGINEER. All computations necessary to establish the exact position of the work shall be made and preserved by the CONTRACTOR.

- F. The ENGINEER may check all or any portion of the work and the CONTRACTOR shall afford all necessary assistance to the ENGINEER in carrying out such checks. Any necessary corrections to the work shall be immediately made by the CONTRACTOR. Such checking by the ENGINEER shall not relieve the CONTRACTOR of any responsibilities for the accuracy or completeness of his work.
- G. At completion of the work, the CONTRACTOR shall furnish As-Built Drawings and As-Built GIS Database updates indicating the final layout of all structures, roads, existing benchmarks, etc. The As-Built Drawings and As-Built GIS database updates shall be in accordance with the requirements of Section 01320, Project Record Documents.

1.09 SUBSURFACE DATA

- A. Subsurface data are offered in good faith solely for placing the Bidder in receipt of all information available to the CITY and in no event is to be considered as part of the Contract Documents.
- B. The Bidder must interpret such subsurface data according to his own judgment and acknowledge that he is not relying upon the same as accurately describing the subsurface conditions, which may be found to exist.
 - 1. The test boring logs present factual information of the subsurface conditions at the specific test boring location only. The Bidder should not consider, or conclude, that the subsurface conditions will be consistent between test boring locations.
- C. In making this data available, the CITY makes no guarantee, either expressed or implied, as to their accuracy or to the accuracy of any interpretation thereof.
- D. Subsurface data for this project can be found in the Appendix.

1.10 OPENINGS, CHASES, SLEEVES, INSERTS, ETC.

- A. The CONTRACTOR shall provide all openings, chases, etc., in the work to fit his own work and that of any other contractors. All such openings or chases shown on the Drawings, or reasonably implied thereby, or as confirmed or modified by shop, setting, or erecting Drawings approved by the ENGINEER, shall be provided by the CONTRACTOR and/or Subcontractors.
- B. Where pipes or conduits are to pass through slabs or walls, or where equipment frames or supports are to be installed as an integral part of an opening, the sleeves, opening forms or frames shall be furnished by the installer of the pipes, conduits, or equipment, but shall be placed by the Subcontractor. Where hanger inserts and similar items are to be installed as an integral part of a slab or wall, they shall be furnished by the installer of the pipe or other equipment requiring the hanger but shall be verified by the CONTRACTOR and incorporated into the concrete placement.

ATTACHMENT 1 TO EXHIBIT A

- C. When requested by the CONTRACTOR, the installer of the pipes, conduit, or equipment, including those Subcontractors who require openings or chases in slabs and walls for passage of ducts, mounting of equipment, etc., shall furnish all necessary information, instructions, and materials to effect accurate installation of the required openings, chases, sleeves, frames, inserts, etc. When such items are secured in position, and just prior to construction of the surrounding slab or wall, the Subcontractor for whom the items are installed shall ascertain the proper number, locations, and settings thereof; and the CONTRACTOR shall schedule his operations so as to provide a reasonable opportunity and time interval for such inspection.
- D. Any costs resulting from correction of defective, ill-timed, or mislocated work, or for subsequent work which becomes necessary because of omitted openings, chases, sleeves, frames, inserts, etc., shall be borne by the CONTRACTOR responsible therefor. To this end, no CONTRACTOR shall arbitrarily cut, drill, alter, damage, or otherwise endanger the work of another CONTRACTOR. The nature and extent of any corrective or additional work shall be subject to the approval of the ENGINEER following consultation with the Contractors involved.

1.11 FIRE PROTECTION

- A. CONTRACTOR shall take all necessary precautions to prevent fires at or adjacent to the work, buildings, etc., and shall provide adequate facilities for extinguishing fires which do occur. Fires shall not be permitted.
- B. When fire or explosion hazards are created in the vicinity of the work as a result of the locations of fuel tanks, or similar hazardous utilities or devices, the CONTRACTOR shall immediately alert the local Fire Marshal and the CITY of such tank or device. The CONTRACTOR shall exercise all safety precautions and shall comply with all instructions issued by the Fire Marshal and shall cooperate with the CITY to prevent the occurrence of fire or explosion.

1.12 FIRST AID FACILITIES AND ACCIDENTS

A. First Aid Facilities

- 1. The CONTRACTOR shall provide at the site such equipment and facilities as are necessary to supply first aid to any of his personnel who may be injured in connection with the work.

B. Accidents

- 1. The CONTRACTOR shall promptly report, in writing, to the CITY all accidents whatsoever out of, or in connection with, the performance of the work, whether on or adjacent to the site, which cause death, personal injury or property damage, giving full details and statements of witnesses.
- 2. If death, serious injuries, or serious damages are caused, the accident shall be reported immediately by telephone or messenger to both the CITY and the ENGINEER.

ATTACHMENT 1 TO EXHIBIT A

3. If any claim is made by anyone against the CONTRACTOR or a Subcontractor on account of any accidents, the CONTRACTOR shall promptly report the facts, in writing, to the CITY, giving full details of the claim.

1.13 SAFETY AND HEALTH REQUIREMENTS

- A. The CONTRACTOR shall comply in every respect with all Federal, State and local safety and health regulations. Copies of the Federal Regulations may be obtained from the U.S. Department of Labor, Occupational Safety and Health Administration.
- B. The CONTRACTOR shall provide all barricades and flashing warning lights or other devices necessary to warn pedestrians and area traffic.
- C. Personnel working in contact with sewage flow or surfaces carrying wastewaters or sludges shall be immunized as recommended by the State of Florida Health Department.

1.14 ULTIMATE DISPOSITION OF CLAIMS BY ONE CONTRACTOR ARISING FROM ALLEGED DAMAGE BY ANOTHER CONTRACTOR

- A. During the progress of the work, other Contractors may be engaged in performing other work or may be awarded other Contracts for additional work on this project. In that event, the CONTRACTOR shall coordinate the work to be done hereunder with the work of such other Contractors and the CONTRACTOR shall fully cooperate with such other Contractors and carefully fit its own work to that provided under other Contracts as may be directed by the CITY. The CONTRACTOR shall not commit or permit any act which will interfere with the performance of work by any other CONTRACTOR.
- B. If the ENGINEER determines that the CONTRACTOR is failing to coordinate his work with the work of the other Contractors as the CITY directed, then the CITY shall have the right to withhold any payments otherwise due hereunder until the CONTRACTOR completely complies with the CITY's directions.
- C. If the CONTRACTOR notifies the ENGINEER in writing that another CONTRACTOR is failing to coordinate his work with the work of this Contract as directed, the ENGINEER will promptly investigate the charge. If the ENGINEER finds it to be true, the CITY will promptly issue such directions to the other CONTRACTOR with respect thereto as the situation may require and issue a response to the CONTRACTOR in writing. The CITY, the ENGINEER, nor any of their agents shall not, however, be liable for any damages suffered by the Contractor by reason of the other CONTRACTOR's failure to promptly comply with the directions so issued by the CITY, or by reason of another CONTRACTOR'S default in performance, it being understood that the CITY does not guarantee the responsibility or continued efficiency of any CONTRACTOR.

1.15 LIMITS OF WORK AREA

- A. The CONTRACTOR shall provide for the storage of equipment, materials, and accumulated construction debris off-site. Responsibility for protection and safekeeping of equipment and materials at or near the sites will be solely that of the CONTRACTOR and no claim shall be made against the CITY by reasons of any act of an employee or trespasser.

ATTACHMENT 1 TO EXHIBIT A

- B. The CONTRACTOR shall secure all storage areas used for the project work. If required, CONTRACTOR shall submit a temporary fencing plan and permits for all storage areas used for the project work.
- C. The CONTRACTOR shall provide a phasing and staging plan that results in minimal impact to the site and nearby residences and provides for continual pedestrian and vehicular access.

1.16 WEATHER CONDITIONS

- A. No work shall be done when the weather is unsuitable. The CONTRACTOR shall take necessary precautions (in the event of impending severe weather, including hurricanes, tropical storms, or major rain/windstorms) to protect all work, materials, or equipment from damage or deterioration due to floods, driving rain, and/or wind. The CITY reserves the right, to order that additional protection measures over and beyond those proposed by the CONTRACTOR, be taken to safeguard all components of the Project.
- B. The mixing and placing of concrete or pavement courses, the laying of masonry, and installation of sewers and water mains and stormwater pipes shall be stopped during rainstorms, if ordered by the ENGINEER; and all freshly placed work shall be protected by canvas or other suitable covering in such manner as to prevent running water from coming in contact with it. Sufficient coverings shall be provided and kept ready at hand for this purpose. The limitations and requirements for mixing and placing concrete or laying of masonry, in cold weather shall be as described elsewhere in these Specifications.

1.17 WEATHER DAYS

- A. A "Weather Day" is defined as a normal work day during which the CONTRACTOR was unable to perform critical path work for a continuous period of more than four (4) hours during that day.
- B. The CONTRACTOR shall be required to submit a record of rain delay in accordance with the contract documents and within 48 hours of the occurrence of the event to the ENGINEER and the OWNER for review.
- C. Weather Days must be reported in the Progress Schedule Update Narrative Report and substantiated with the amount of rainfall obtained from the nearest CITY identified rain gauge and a description of the activity that was interrupted.

1.18 HURRICANE PRECAUTIONS

- A. During such periods of time as are designated by the United States Weather Bureau as being a hurricane watch or warning, the CONTRACTOR, at no cost to the CITY, shall take all precautions necessary to secure the Project site in response to all threatened storm events.
- B. Compliance with any specific hurricane watch or warning precautions will not constitute additional work.
- C. Suspension of the Work caused by an impending or actual storm event will entitle the

ATTACHMENT 1 TO EXHIBIT A

CONTRACTOR to additional Contract Time equivalent to the time lost as a result of the threatened or actual storm event and shall not give rise to a claim for compensable delay.

1. In the event of a threatened storm that does not occur, the Contract Time will be equivalent to the time between United States Weather Bureau notice of a watch or warning and the lifting of same.
2. In the event of an actual storm event, the Contract Time will be equivalent to the time between United States Weather Bureau notice of a watch or warning and the time required to establish safe working conditions.

1.19 USE OF FACILITIES BEFORE COMPLETION

- A. The CITY reserves the right to enter and use any portion of the constructed facilities before final completion of the whole work to be done under this Contract. However, only those portions of the facilities which have been completed to the CITY's satisfaction may be placed into service. The CITY will issue only one Certificate of Substantial Completion to the CONTRACTOR covering the entire project regardless of when each portion of the facilities is placed into service.
- B. It shall be the CITY's responsibility to prevent premature connections to or use of any portion of the installed facilities by private or public parties, persons or groups of persons, before the CITY issues its Certificate of Substantial Completion covering that portion of the work to be placed in service.
- C. Consistent with the approved progress schedule, the CONTRACTOR shall cooperate with the CITY to accelerate completion of those facilities, or portions thereof, which have been designated for early use by the CITY.

1.20 UTILITY LOCATIONS

- A. As far as possible, all existing utility lines in the project area have been shown on the plans. However, the CITY does not guarantee that all lines are shown, or that said lines are in their true location. It shall be the CONTRACTOR'S responsibility to identify and locate all underground or overhead utility lines or equipment affected by the project. No additional payment will be made to the CONTRACTOR because of discrepancies in actual and plan location of utilities.
- B. The CONTRACTOR shall notify each utility company involved at least thirty (30) days prior to the start of construction to arrange for positive underground location, relocation, or support of its utility where that utility may be in conflict with or endangered by the proposed construction. Relocation of water mains or other utilities for the convenience of the CONTRACTOR shall be paid for by the CONTRACTOR. All charges by utility companies for temporary support of its utilities shall be paid for by the CONTRACTOR. All cost of permanent utility relocations to avoid conflict shall be the responsibility of the CONTRACTOR and the utility company involved.
- C. The CONTRACTOR shall schedule and coordinate the Work in such a manner that it is not delayed by the utility companies relocating or supporting their utilities. No compensation will be paid to the CONTRACTOR for any loss of time or delay.

ATTACHMENT 1 TO EXHIBIT A

- D. All overhead, surface or underground structures and/or utilities encountered are to be carefully protected from damage or displacement. All damage to said structures and/or utilities is to be completely repaired within a reasonable time; needless delay will not be tolerated. The CITY reserves the right to remedy any damage by ordering outside parties to make repairs at the expense of the CONTRACTOR. All repairs made by the CONTRACTOR are to be made to the satisfaction of the utility OWNER and shall be inspected by a representative of the utility OWNER and the ENGINEER.
- E. The CONTRACTOR should be aware of the Sunshine State One Call Center, which has a free locating service for CONTRACTORS and excavators:
 - 1. Within forty-eight hours before excavating, dial toll free 811, and a locator will be dispatched to the Work location. CONTRACTOR shall reasonably notify other utility companies not notified by Sunshine State One Call Center.
- F. In the event that during the course of the Work CONTRACTOR encounters subsurface or concealed conditions or unknown physical conditions of an unusual nature at the Project site which differ materially from those shown on the Contract Documents, which are not marked in the field by locating services or Utility Department, and which differ from those ordinarily encountered and generally recognized as inherent in Work of the character called for in the Contract Documents, CONTRACTOR, without disturbing the conditions and before performing any Work affected by such conditions, shall, within twenty-four (24) hours of their discovery, notify CITY and ENGINEER in writing of the existence of the aforesaid conditions. ENGINEER and CITY shall, within two (2) business days after receipt of CONTRACTOR'S written notice, investigate the site conditions identified by CONTRACTOR. Should ENGINEER determine that the conditions of the Project site are not so materially different to justify a change in the terms of the Contract, ENGINEER shall so notify CITY and CONTRACTOR in writing, stating the reasons, and such determination shall be final and binding upon the parties hereto.
- G. No request by CONTRACTOR for a change to the Contract Price or Time under this provision shall be allowed if the CONTRACTOR has not given written notice in strict accordance with these provisions, or if it is made after the date certified by the ENGINEER as the date of Substantial Completion.

1.21 ENVIRONMENTAL PROTECTION

- A. The CONTRACTOR shall furnish all labor and equipment and perform all Work required for the prevention of environmental pollution during and as a result of the Work under this contract. The CONTRACTOR shall be responsible for preparing and complying with the requirements of the National Pollution Prevention Discharge Elimination System (NPDES) and Storm Water Pollution Prevention Plan (SWPPP), including preparation and submittal of the Notice of Intent (NOI) prior to start of construction. For the purpose of this contract environmental pollution is defined as the presence of chemical, physical, or biological elements or agents which adversely affect human health or welfare; unfavorably alter ecological balances of importance to human life, affect other species of importance to man, or degrade the utility of the environment for aesthetic and recreational purposes. The control of environmental pollution requires consideration of air, water, land and involves noise, solid waste management and management of radiant energy and radioactive materials, as well as other pollutants.

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- B. The CONTRACTOR shall take all steps necessary to protect water quality in the connected waters around the project and shall utilize such additional measures as directed by the . Silt screens, hay bales, turbidity curtains, or other control measures adjacent to outfall construction shall not be removed until the turbidity of the affected waters is equal to or lower than the ambient turbidity of undisturbed segments of adjacent surface waters.

PART 2 -- PRODUCTS

(NOT USED)

PART 3 -- EXECUTION

(NOT USED)

- END OF SECTION -

EXHIBIT B
Funding Schedule

Funding Amounts: The amounts stated in this Funding Schedule are the maximum amounts payable for the Phase(s) stated, and shall be invoiced and paid only in accordance with the remainder of this Funding Schedule (as may be amended from time to time) and the terms and conditions of the Agreement. In the event of a conflict between anything stated in this Funding Schedule and anything stated elsewhere in the Agreement, the provisions stated in Articles 1 through 11 of the Agreement shall govern and control.

Invoicing/Application for Funding Documentation: Municipality shall submit the following with each invoice or Application for Funding (as defined below): an updated progress schedule; documentation of all invoices received from or payments made to Contractor or Consultant for which funding is sought; a statement indicating the cumulative amount of CBE participation to date; and a certification that all funding amounts sought are statutorily eligible for funding under Section 212.055, Florida Statutes.

Additional Invoicing Requirements: If checked, the checked requirements apply to all invoices/Applications for Funding under this Agreement:

- All costs invoiced shall be supported by properly certified payrolls, time records, invoices, contracts, or vouchers evidencing appropriate detail the amounts invoiced/expended and the nature and purpose of such amounts.
- Pay Application documents consistent with AIA Document G702 and G703
- _____

Funding Parameters: The checked expenses are ineligible for funding under this Agreement:

- Costs incurred by Municipality prior to the execution of this Agreement
- Costs incurred after the expiration of this Agreement
- Costs that are not expressly permitted in Exhibit A or B
- Amounts that Contractor, Consultant, or Subcontractors are contractually responsible to pay, credit, or reimburse to Municipality or County (e.g., liquidated damages for not meeting the Project Schedule, audit costs, etc.)
- Amounts attributable to good or services received under a contract or other arrangement that was not approved by County
- Audit costs incurred by Municipality
- Legal and accounting fees and expenses
- Costs for operation, support, or maintenance of the Project
- Interest expenses incurred by Municipality
- Municipality's staff or other personnel costs in directly performing the Project [uncheck this box if Municipality is directly performing the Project]

Municipality shall invoice County for up to a quarter of the applicable Total Maximum Not-To-Exceed Amount specified below in advance of the applicable Deliverable or Phase (“Application for Funding”). The first Application for Funding shall be submitted to the Contract Administrator no later than thirty (30) days after the full execution of this Agreement. Municipality shall submit no more than four separate Applications for Funding per funding schedule provided below.

Each quarter will be funded in advance by County per the schedule(s) stated below, with each funding amount determined by the Maximum Not-to-Exceed Amount for the applicable Deliverable less any unexpended funding for prior Deliverables. Unexpended funds for prior Deliverables shall be deducted from subsequent Applications for Funding or refunded to County, as requested by the Contract Administrator.

Each Application for Funding (after the first) shall include the information required in the Agreement including the following information for the prior Deliverables (as applicable): the amount of funding received and evidence of actual expenditures (including documentation demonstrating all invoices received from and payments made to Consultant and for right of way acquisition or wetland mitigation); a statement indicating the cumulative amount of CBE participation; an updated progress schedule; and all required certifications including that all Deliverables sought are statutorily eligible for funding under Section 212.055, Florida Statutes.

Absent prior written approval by the Contract Administrator, Municipality may not submit an Application for Funding for a Deliverable until all prior Deliverables have been satisfactorily completed.

Deliverable/Phase Description	Maximum Not-To-Exceed Amount
Deliverables 1: Project Mobilization	\$351,915.25
Deliverable 2: Complete Site Excavation and Initial Construction	\$351,915.25
Deliverable 3: Completion of Pump Station Construction	\$351,915.25
Deliverable 4: Completion of Pipeline Connections/ Initiation of Pump Station Startup	\$351,915.25
TOTAL MAXIMUM NOT-TO-EXCEED AMOUNT:	\$1,407,661.00

EXHIBIT C

Reporting Requirements

Municipality shall submit to County and the Oversight Board, on a quarterly and annual basis, a detailed Financial Report that includes the information contained in the attached Sample Financial Report.

Municipality shall submit to County on a monthly basis a detailed report of the Project Metrics and progress towards applicable goals in a form prescribed by County (see attached MAP PMO Project Report Status Template). The reports must include sufficient information to enable County's Program Management Office ("PMO") to track and document on a monthly basis:

- Key activities and Project milestones since the previous report;
- Expected activities/milestones to be completed before the next report;
- If applicable, key issues/challenges the Project faces and the plan to resolve or manage the issues/challenges; and
- Overall status of the Project.

Municipality's annual financial report for the Project must be audited and certified by an independent CPA, at Municipality's expense, with an opinion as to whether the financial information in the report is presented in accordance with Generally Accepted Accounting Principles and whether the Project is in accordance with the operative interlocal agreements for surtax funding. The audit shall contain sufficient information for County and the Oversight Board to determine if the Project expenditures conform to this Agreement and applicable law. The annual financial report must also include cumulative financial information for each individual Surtax-Funded Project undertaken by Municipality. The annual financial report must include appropriate footnote disclosures in support of the financial information items presented, including disclosure of any issue of noncompliance with this Agreement or applicable law.

Sample Financial Report

Project Name:	
Quarterly Period:	

Section A: Total/Maximum Project Funding

1.	Surtax Maximum Funding Amount (per Section 5.4)	\$
2.	Non-Surtax Funding Awarded/Committed	\$
3.	Total Project Funding (Total lines 1 + 2)	\$
4.	Less Proceeds (as defined in Section 5.6)	(\$)
5.	Adjusted Project Funding (Line 3 minus Line 4)	\$

Section B: Funding Received to Date

		Quarter Reported	Fiscal Year to Date	Total
6.	Surtax Funding Received	\$	\$	\$
7.	Non-Surtax Funding Received	\$	\$	\$
8.	Total Project Funding Received (Total lines 6 + 7)	\$	\$	\$

Section C: Expenditures to Date

		Quarter Reported	Fiscal Year to date	Total
9.	Surtax Funding Expended	\$	\$	\$
10.	Non-Surtax Funding Expended	\$	\$	\$
11.	Total Project Funding Expended (Total lines 9 + 10)	\$	\$	\$

Section D: Available Funding to Date

12.	Adjusted Project Funding (Line 5 above)	\$
13.	Total Project Funding Expended to Date (Line 11 above)	\$
14.	Available Project Funding to date (Line 12 minus line 13)	\$

Section E: Contract Financials *(complete for each of Contractor and Consultant)*

Original Contract amount	\$
Changes (increases or decreases)	\$
Revised contract amount	\$
Total Work Completed to Date	\$
Retainage Held to Date	\$
Total Earned Less Retainage	\$
Total Amount Paid to Date	\$
Work Completed this Quarter	\$
Retainage Held for Work Completed this Quarter	\$

Retainage Released this Quarter	\$
Amount Paid this Quarter	\$

Section F: Quarterly Detailed Expenditures (for Quarter Reported)

Invoice No.	Invoice Date	Vendor Name	Description of Work	Invoice Amount	Amount Paid

Section G: Project Schedule & Status

15.	Project Schedule Completion Date	
16.	Total Project Schedule Time Remaining	
17.	Amount Project Is Ahead/Behind Schedule	<input type="checkbox"/> Ahead by ___ Days <input type="checkbox"/> Behind by ___ Days
18.	Explanation for Change in Project Schedule:	
19.	Project Run Rate (Actual vs. Planned Expenditures)	
20.	Percentage of Project Phases/Milestones Met	%

Section H: Performance Metrics

- A. [To be provided by the PMO as applicable]
- B. Pavement Serviceability Rating (PSR): Report PSR prior to commencement of Project, current PSR, and projected PSR upon completion of Project.

MAP PMO Project Status Report *Template*





<Agency> Project: <i><fill in project name or id></i>		Owner: <i><fill in></i>	July 15,2019
Progress update <ul style="list-style-type: none"> • <i>Key activities since the last status report</i> • ? 		Overall Progress  <div style="border: 1px solid black; padding: 5px; display: inline-block;"> <ul style="list-style-type: none">  Red = Execution critical delay  Amber = Delay; but recoverable  Green = On track </div>	
Key activities to be completed in the next <2-4> weeks: <ul style="list-style-type: none"> • ? • ? 		Summary: (may include) <ul style="list-style-type: none"> • <i>Key take-aways for BoCC, OB and SurTax Admin</i> • Project run rate; actual vs. planned • % Milestones met • Days over budget • Leverage ratio • <i>Key reminders of critical decisions/milestones/etc.</i> 	
Issues/Challenges:		Proposed solutions:	

Exhibit D Form Contracts

Surtax-Funded Projects Form Construction Contract:



170 - Municipal
Projects.Construction

Surtax-Funded Projects Form Consultant Contract:



202 - Municipal
Projects.Consulting (7

