



HARVEY E. OYER JR. PARK MARINA BOAT RAMP IMPROVEMENT PROJECT

CONSTRUCTION CONTRACT

THIS AGREEMENT is entered into between the City of Boynton Beach, hereinafter referred to as "the City", and Anzco, Inc., hereinafter referred to as "CONTRACTOR", in consideration of the mutual benefits, terms, and conditions hereinafter specified.

PROJECT DESIGNATION. The Contractor is retained by the City to provide Harvey E. Oyer Jr. Park Marina Boat Ramp Improvements.

NOW, THEREFORE, in consideration of these premises and the mutual conditions and covenants contained herein, the parties agree as follows:

The CITY does award the contract to and does hire and employ the CONTRACTOR and the CONTRACTOR does accept the award, predicated upon the bid of the CONTRACTOR, dated March 11, 2021, which is hereby incorporated by reference into this agreement, and the CONTRACTOR does agree to furnish the necessary labor, tools, equipment, materials and supplies, etc., and to perform all the work provided in the bid, contract documents, bond documents, plans and specifications for:

Bid Title: HARVEY E. OYER, JR. PARK MARINA BOAT RAMP
IMPROVEMENT PROJECT
Bid Number: 002-2511-21/RW

the City of Boynton Beach, Florida, all of which are incorporated herein by reference lump sum price as specified in CONTRACTOR'S bid in the amount of:

NINE HUNDRED SIXTY-SEVEN THOUSAND AND FIVE HUNDRED THIRTY-EIGHT DOLLARS - \$967,538.00

1.0 SCOPE OF SERVICES

- 1.1 CONTRACTOR further agrees to furnish all materials, supplies, machines, equipment, tools, superintendents, labor, insurance, and other accessories and services necessary to complete said project in accordance with the conditions and prices as stated in the contract, General Conditions for Construction, and Supplementary Conditions for Construction, plans which include all maps, plats, blueprints, and other drawings and printed or written explanatory matter thereof as contained in the bid, contract documents and specifications for the project.
- 1.2 All the work and labor performed under this contract shall be performed, and all of the material furnished shall be, in strict conformity with said plans and specifications, and CONTRACTOR accepts and consents to the conditions contained in said plans and specifications and expressly agrees to comply with every requirement and stipulation therein contained to be performed by the party contracting to do said work.
- 1.3 The CONTRACTOR further agrees to furnish all tools, equipment, materials and supplies and to do all the work above mentioned in a first-class, substantial and workmanlike manner, and in conformity with the detail for said work on file in the office of the City Engineer of the City and strictly in accordance with the specifications, general stipulations and plans which are hereby referred to and made a part of this contract, as well as to the satisfaction of the City Commission and City Engineer of the said City, and in strict obedience with the directions which may be given by the City Manager or his authorized representative, at and for the prices herein plainly set forth.

- 1.4 Upon receipt of written notification from the CITY, to correct any defective or faulty work or materials which may appear within one (1) year after completion of the contract and receipt of final payment. CONTRACTOR shall make the necessary corrections within ten (10) days of receipt of the written notice.
- 1.5 To comply with the provisions of Section 255.05, Florida Statutes, if applicable.
- 1.6 To pay promptly, before final settlement, any and all claims or liens incurred in and about this work. Furnish release of liens forms from all subcontractors and suppliers of materials. Forms to be supplied by CITY.
- 1.7 The CONTRACTOR shall remove and clean up all rubbish, debris, excess material, temporary structures, tools and equipment from streets, alleys, parkways and adjacent property that may have been used or worked on by the CONTRACTOR in connection with the project promptly as such section or portion is completed and ready for use, leaving the same in a neat and presentable condition.

Payment of monthly or partial estimates may be withheld until this has been done to the satisfaction of the City Engineer. Final acceptance and payment for the entire project will not be made until the site is satisfactory to the CITY.
- 1.8 The CONTRACTOR shall at all times observe and comply with the provisions of the charter, ordinances, codes and regulations of the City of Boynton Beach, Florida.
- 1.9 Upon completion of the work, the City Engineer shall satisfy himself, by examination and test, that the work has been fully completed in accordance with the plans, specifications and contract documents. When the City Engineer is so satisfied, he shall recommend acceptance thereof to the City Manager, who shall, if he agrees with such recommendation, present the final payment application to City Commission for review and vote to formally accept the project. The right of general supervision of the CITY as hereinafter provided under "authority of the Engineer" shall not make the CONTRACTOR an agent or employee of the CITY, but the CONTRACTOR, shall at all times, and in all respects have the rights and liabilities of an independent contractor.
- 1.10 After the cleaning up of the work, premises, streets, alleys, or other areas of structure in anyway connected with the performance of the contract, the work as a whole shall be inspected by the City Engineer, and any workmanship or material found not meeting the requirements of the specifications shall be removed by or at the expense of the CONTRACTOR and good and satisfactory workmanship or material substituted therefore. All settlement, defects or damage upon any part of the work shall be remedied and made good by the CONTRACTOR.
- 1.11 The CONTRACTOR will be held responsible for the care, protection and condition of all work until final completion and acceptance thereof, and will be required to make good at his own cost any damage or injury occurring from any cause.

2.0 TIME FOR PERFORMANCE

- 2.1 Work under this Agreement shall commence upon the giving of written notice by the City to the Contractor to proceed. Contractor shall perform all services and provide all work product required pursuant to this Agreement.

3.0 CONTRACT TIME

Contractor must commence work on a date to be specified in a written "Notice to Proceed" of the CITY and to be fully complete **180** calendar days for substantial completion and Final Completion shall be within **30** consecutive calendar days thereafter.

- 3.1 Upon failure of Contractor to obtain Substantial Completion within the deadline stated, plus approved time extensions, Contractor shall pay to City the sum of **\$1,000.00** for each calendar day after the deadline for Substantial Completion, plus any approved time

extensions, until Substantial Completion is obtained. After Substantial Completion, should Contractor fail to complete the remaining work within the deadline stated in Paragraph 3.1, plus approved time extensions thereof, Contractor shall pay to City the sum of \$1,000 for each calendar day after the deadline for Final Completion, plus any approved extensions, until Final Completion is obtained. These amounts are not penalties but are liquidated damages to City for its inability to obtain full beneficial occupancy of the Project. Liquidated damages are hereby fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by City as a consequence of such delay, and both Parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to complete this contract on time.

- 3.2 The CITY shall have the right to deduct said liquidated damages from any amount due, or that may become due the CONTRACTOR, or to collect such liquidated damages from the CONTRACTOR or his Surety.
- 3.3 CONTRACTOR shall, as soon as practicable after signature of contract, confirm with City Engineer in writing, the names of subcontractors as originally proposed for principal parts of work, and for such others as City Engineer may direct. Contractor shall not employ and that City Engineer may, within a reasonable time, object to as incompetent or as unfit.

4.0 PROTECTION OF EXISTING FACILITIES

- 4.1 The CONTRACTOR warrants that prices include the protection and continuous use of all existing sewers, conduits, drains, pipes, buildings, walks, bridges, guard rails and other construction encountered, and the prompt repairing of any damage done to them during the progress of the work, or from insufficient support thereafter; also all the filling, backfilling, tamping, ramming, puddling and consolidating; the removal and disposal of all rubbish and surplus material; also all pumping bailing draining or unwatering of all excavations, incidental to the execution of the work; also the furnishing of all necessary labor, tools, equipment, materials and supplies, etc. and the performance of the whole work mentioned in the detailed plans and specifications necessary to give a finished result, and including all expense incurred in or in consequence of the suspension or discontinuance of the said work specified and a faithful compliance with each and every one of the requirements of the contract and for the maintenance of the entire work and construction in good condition and repair until final acceptance.
- 4.2 The CONTRACTOR shall assume full responsibility and expense for the protection of all public and private property, structures, water mains, sewers, utilities, etc., both above and below ground, at or near the site or sites of the work being performed under the contract, or which are in any manner affected by the prosecution of the work or the transportation of men and materials in connection therewith. The CONTRACTOR shall give reasonable written notice in advance to the department of the CITY having charge of any property or utilities owned by the CITY and to other CITY or CITYs of public or private property or utilities when they shall be affected by the work to be performed under the contract, and shall make all necessary arrangements with such department, departments, CITY or CITYs for the removal and replacement or protection of such property or utilities.

5.0 INDEMNIFICATION

- 5.1 The CONTRACTOR shall indemnify and save harmless and defend the CITY, its agents, servants, and employees from and against any claim, demand, or cause of action of whatsoever kind or nature arising out of error, omission or negligent act of CONTRACTOR, its agents, servants, or employees in the performance of services under this Agreement.
- 5.2 CONTRACTOR shall indemnify and save harmless and defend CITY, its agents, servants and employees from against any kind and all causes, claims, demands, actions, losses, liabilities, settlements, judgments, damages, costs, expenses, and fees (including without limitation reasonable attorney's and appellate attorney's fees) of whatsoever kind or nature for damages to persons or property caused in whole or in part by any act, omission, or default of the CITY, its agents, servants or employees arising from this contract or its performance. The CONTRACTOR and the CITY hereby agree and covenant that the

CONTRACTOR has incorporated in this original bid, which constitutes the contract sum payable by the CITY to the CONTRACTOR, specific additional consideration sufficient to support this obligation of indemnification provided for in this paragraph. It is the CITY'S and CONTRACTOR'S full intention that this provision shall be enforceable and said provision shall be in compliance with Florida Statute 725.06.

- 5.3 The execution of this Agreement by the CONTRACTOR shall obligate CONTRACTOR to comply with the foregoing indemnification provision, as well as the insurance provisions which are set forth herein. However, the indemnification provision, and the insurance provision contained in this Contract are not interdependent of each other, each one is separate and distinct from the other.
- 5.4 The obligation of the CONTRACTOR to indemnify the CITY is not subject to any offset, limitation or defense as a result of any insurance proceeds available to either the CITY or the CONTRACTOR.

6.0 PAYMENT BY CITY

- 6.1 The CITY agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions as provided in the specifications.

6.2 PROSECUTION OF WORK

The work shall be prosecuted at such time or in or on such part or parts of the project which such forces of workmen, materials and equipment as may be ordered by the Architect in writing, to complete the project as outlined in the drawings, specifications, Contract and schedules, including such detailed drawings as may be furnished by the Architect from time to time during the prosecution of the work in explanation of said drawings. If at any time the materials and appliances to be used appear to the Architect as insufficient or improper for securing the quality of work required, or the required rate of progress, he may order the Contractor to increase his efficiency or to improve the character of his work. The Contractor shall conform to such an order. The failure of the Architect to demand any increase of such efficiency or any improvement shall not release the Contractor from his obligation to secure the quality of work or the rate of progress necessary to complete the work within the limits imposed by the Contract.

- a. The Contractor shall perform the work and take such precautions as he may deem necessary to complete the project so all work will be in first-class and acceptable conditions within the Contract time according to schedule.
- b. If the Contractor desires to carry on work at night or outside the regular hours, he shall submit application to the CITY, but he shall allow ample time to enable satisfactory arrangements to be made for inspecting the work in progress. The CITY could grant permission unless local regulations prohibit such work. If granted permission, he shall comply with all regulations and legal requirements. Contractor shall be responsible to pay for all inspection services outside of regular hours at a rate of \$100/hr.

6.3 WORKMANSHIP, MATERIAL AND WORKMEN

- a. Unless otherwise stated in the detailed specifications, all workmanship, materials and articles incorporated in the work covered by this Contract shall be of the most suitable grade of their respective kinds for the purpose and acceptable to the Architect. The Architect shall decide the question of quality where the expression "or equal" is used in the specifications following reference to a specific manufacturer of equipment or materials. When and to the extent required by the specifications or by the Architect, the Contractor shall furnish the Architect for review, full information concerning the materials or articles or methods of work which he contemplates incorporating the work. Samples of materials shall be submitted for review when requested. Machinery, materials, articles installed or used, or unusual methods of work used without such review shall be at the risk of subsequent rejection.
- b. The CITY may require the Contractor to remove from the work such employees as

the CITY deems incompetent, careless, insubordinate, or otherwise objectionable, or whose continued employment on the work is deemed to be contrary to the CITY interest.

6.4 DELAYS AND EXTENSION OF TIME

- a. If the Contractor is delayed at any time in the progress of the work by any act or neglect of the CITY or his employees, or by any other Contractor employed by the CITY, or by changes ordered in the work, or by strikes, fire, lockouts, unusual delay in transportation, unavoidable casualties or by delay authorized by the CITY pending arbitration, or by any cause which the CITY shall decide to justify the delay, then the time of completion may be reasonably extended by the CITY.
- b. No extension shall be made for delay unless notice of a claim is made by the Contractor in writing to the Architect within seven days of the event or incident causing the delay.
- c. If no schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay shall be allowed on account of failure to furnish drawings until two weeks after demand in writing for such drawings and not then unless such claim is reasonable and otherwise provided by "Notice" as defined in the General Condition for Construction.
- d. In the event of any delay in the project caused by any act or omission of the City, its agents, or employees, the sole remedy available to Contractor shall be by extension of the time allocated to complete the project. No monetary damages shall be claimed or awarded to Contractor in association with any delay in the project caused by any act or omission of the City, its agents or employees.

For the purpose of this section the phrase "the City, its agents and employees" shall include but shall not be limited to the Architect, Project Supervisor, and consulting Architects.

This article does not exclude the recovery of damages by the City for delay caused by Contractor under other provisions in the Contract Documents

7.0 CHANGES IN THE WORK

- 7.1 The CITY, without invalidating the Contract, may order extra work or make changes by altering, adding to or deducting from the work, the Contract sum being adjusted accordingly. All such work shall be executed under the conditions of the original Contract. Any claim for extension of time caused thereby shall be made in writing at the time such change is ordered.
- 7.2 All change orders and adjustments shall be in writing and approved by the City Manager or City Commission if required, otherwise, no claim for extras will be allowed.
- 7.3 The General Contractor and all of his subcontractors shall be apprised of, and familiar with, the following conditions and procedures governing extra work under the Contract:
 - a. Any change order has to be recommended by the City Manager and officially approved by the City Commission before any steps are taken to implement the change order.
 - b. Should the CONTRACTOR or any of his subcontractors commence with the work without making a claim in writing for unforeseen extra work he encounters, it will be construed as an acceptance and agreement by him that any such work is required under the contract and no future claim for extras will be considered or allowed by the CITY.
 - c. No claim for extra work will be allowed unless and until authority for same by written Change Order has been obtained from the City Manager or the City Commission of Boynton Beach, if necessary, which authorization will be signed by the Mayor.

- d. ~~Changes in the work directed in writing by the CITY'S Representative under the following procedures shall become a part of the Contract by a written Change Order.~~
 - e. Information regarding changes in the work involving claims to the CITY for additional work, credits, and/or adjustments under the contract shall be promptly transmitted in writing by the General CONTRACTOR to the CITY'S Representative with full explanations and justifications for his consideration in preparing a Change Order to the Contract.
- 7.4 The value of any change ordered under the Contract for extra work and/or any reductions in work required, shall be determined under one or more of the following procedures before a written Change Order is issued:
- a. By such applicable unit prices, if any, as are set forth in the Contract except in those cases where increases in quantities exceed fifteen (15) percent of the original bid quantity and the total dollar change of that bid item is significant in the opinion of the Engineer, the unit price shall be subject to review to determine if a new unit price should be negotiated; or
 - b. If no such unit prices are set forth, then by a lump sum or other unit prices mutually agreed upon by the CITY and the CONTRACTOR; or
 - c. By cost reimbursement, which is the actual cost for labor, direct overhead, materials, supplies, equipment and other services necessary to complete the work plus fifteen (15) percent to cover the cost of general overhead and profit. For all labor and foreman in direct charge of the authorized operations, the CONTRACTOR shall receive the current local rate of wages to be agreed upon in writing before starting such work, for each hour said labor and foreman are actually engaged thereon. An upper limit of total cost and of profit shall be agreed upon and shall not be exceeded unless approved by the CITY.
 - a.) The CONTRACTOR shall submit sufficient cost and pricing data to enable the Engineer to determine the necessity and reasonableness of costs and amounts proposed and the allowability and eligibility of costs proposed.
 - b.) The CONTRACTOR shall have an accounting system which accounts for such costs in accordance with generally accepted accounting principles. This system shall provide for the identification, accumulation and segregation of allowable and unallowable Change Order costs.
 - c.) Where it is indicated that the Contract is federally or State assisted, the CONTRACTOR'S attention is directed to the applicable rules and regulations relative to cost principles which must be used for the determination and allowability of costs under grant.
 - d.) In no case shall fringe benefit costs on direct labor costs exceed forty (40) percent of direct labor costs.
 - e.) In no case shall the CONTRACTOR and Subcontractors' general overhead and profit in the aggregate exceed fifteen (15) percent of the total cost of direct labor, fringe benefits, direct overhead, materials, supplies, equipment and directly related services supplied by him. Among the items considered as general overhead are bonds, insurance, incidental job burdens, supervision and general office expenses.
 - f.) In no case shall the CONTRACTOR'S cost for administering subcontracts exceed five (5) percent of the subcontractors' cost not including subcontractors' profit.
 - g.) For special equipment and machinery such as power driven pumps, concrete

mixers, trucks, and tractors, or other equipment, required for the economical performance of the authorized work, the CONTRACTOR shall receive payment based on the agreed rental price for each item of equipment and the actual time of its use on the work provided that the rental price shall not exceed the current rates published by the Equipment Guide Book Company in the Blue Book, "Rental Rates for Construction Equipment". Rate shall be daily, weekly or monthly as appropriate.

- h.) Records of extra work done shall be reviewed at the end of each day by the CONTRACTOR and the Engineer. Such daily records shall clearly distinguish between the work done under the contract and that done under the Change Order. Duplicate copies of the accepted daily records shall be made, signed by the CONTRACTOR and the Engineer and one copy retained by each.

7.5 Claim of payment for extra work shall be submitted by the CONTRACTOR upon certified statement supported by receipted bills. Such statements shall be submitted for the current contract payment for the month in which the work was done. No claim for extra work shall be allowed unless that same was ordered, in writing, as aforesaid and the claim presented at the time of the first estimate after the work is completed.

7.6 No Field Change Directive or Change Order shall be authorized by the Project Manager if the Contractor has added language to the Field Change Directive or Change Order or to any cover letter, e-mail, facsimile, or other written document which accompanies the Field Change Directive or Change Order in which the contractor attempts to reserve any future right or claim arising out of the work which is the subject of the Field Change Directive or Change Order.

8.0 OWNERSHIP AND USE OF DOCUMENTS

8.1 All documents, drawings, specifications and other materials produced by the Contractor in connection with the services rendered under this agreement shall be the property of the City whether the project for which they are made is executed or not. The Contractor shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with Contractor's endeavors.

9.0 COMPLIANCE WITH LAWS

9.1 Contractor shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state of Florida and City of Boynton Beach, ordinances and regulations that are applicable to the services to be rendered under this agreement.

10.0 INSURANCE

10.1 The Contractor shall secure and maintain in force throughout the duration of this contract comprehensive general liability insurance with a minimum coverage of \$1,000,000 per occurrence and \$1,000,000 aggregate for personal injury; and \$1,000,000 per occurrence/aggregate for property damage, and professional liability insurance in the amount of \$1,000,000 per occurrence to \$2,000,000 aggregate with defense costs in addition to limits.

10.2 Said general liability policy shall name the City of Boynton Beach as an additional named insured and shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to the City. Certificates of coverage as required by this section shall be delivered to the City within fifteen (15) days of execution of this agreement.

11.0 INDEPENDENT CONTRACTOR

11.1 The Contractor and the City agree that the Contractor is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither Contractor nor any employee of Contractor shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement.

The City shall not be responsible for withholding or otherwise deducting federal income tax or Social Security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to Contractor, or any employee of Contractor.

12.0 COVENANT AGAINST CONTINGENT FEES

- 12.1 The Contractor warrants that he has not employed or retained any company or person, other than a *bona fide* employee working solely for the Contractor, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a *bona fide* employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this contract.

For breach or violation of this warranty, the City shall have the right to annul this contract without liability or, in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

13.0 DISCRIMINATION PROHIBITED

- 13.1 The Contractor, with regard to the work performed by it under this agreement, will not discriminate on the grounds of race, color, national origin, religion, creed, age, sex or the presence of any physical or sensory handicap in the selection and retention of employees or procurement of materials or supplies.

14.0 ASSIGNMENT

- 14.1 The Contractor shall not sublet or assign any of the services covered by this Agreement without the express written consent of the City.

15.0 GUARANTEE AND WARRANTIES

- 15.1 All the work shall be guaranteed to remain in good condition for one year from date of acceptance.

16.0 TERMINATION OF CONTRACT

- 16.1 If the work to be performed under the contract is assigned by the CONTRACTOR other than provided for herein; if the CONTRACTOR should be adjudged as bankrupt; if a general assignment of his assets be made for the benefit of his creditors; if a receiver should be appointed for the CONTRACTOR or any of his property; if at any time the Engineer shall certify in writing to the City Manager that the performance of the work under the contract is being unnecessarily delayed or that the CONTRACTOR is willfully violating any of the conditions, provisions, or covenants of the contract, plans or specifications, or that he is executing the same in bad faith or otherwise not in accordance with the terms of the contract; if the work be not fully completed within the time named for its completion or within the time to which such completion date may be extended; or if other just causes exist, the City Manager may serve ten (10) days' written notice upon the CONTRACTOR of the intent to terminate the contract for the CITY and if the CONTRACTOR shall not, prior to the effective date of termination set forth in such notice, take such measures as will, in the judgment of the City Manager, ensure the satisfactory performance of the work, the City Commission and the City Manager may declare the contract terminated on the effective date specified in such notice, or any date subsequent thereto. In the event of such termination, the City Manager shall notify the CONTRACTOR and Surety and the CONTRACTOR shall immediately respect such notice and stop work and cease to have any right to the possession of the ground and shall forfeit his contract. Upon such termination, the City Manager shall provide the Surety with written notice of the CITY'S action and the Surety shall within ten (10) days of receipt of said notice remedy the default or the Surety shall as expeditiously as possible:

- a. Complete the contract in accordance with its terms and conditions, or

- b. Obtain a bid or bids for completing the contract in accordance with its terms and conditions, and upon determination by Surety and the CITY of the lowest responsible bidder, make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts or completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by CITY to CONTRACTOR under the contract and any amendments thereto, less the amount properly paid by CITY to CONTRACTOR.

17.0 CONTRACT CONTROLS

- 17.1 The subject contract between the CITY and the CONTRACTOR shall supersede any and all documents executed between the parties relative to the project. In the event of any inconsistencies, the terms, provisions and conditions set forth in the subject contract shall supersede all other documents and shall be controlling.

18.0 TIME OF ESSENCE

- 18.1 In as much as the provisions hereof, and of the plans and specifications herein, and of all the other contract documents relating to the times of performance and completion of the work are for the purpose of enabling the CITY to complete the construction of a public improvement in accordance with a predetermined program, all such time limits are of the essence of the contract.

19.0 REMEDY FOR DELAY

- 19.1 In the event of any delay in the project caused by any act or omission of the CITY, its agents or employees, by the act or omission of any other party, or delay caused by weather conditions or unavailability of materials, the sole remedy available to CONTRACTOR shall be by extension of the time allocated to complete the project. No monetary damages shall be claimed or awarded to CONTRACTOR in association with any delay in the project caused by an act or omission of the CITY, its agents or employees.
- 19.2 Failure on the part of CONTRACTOR to timely process a request for an extension of time to complete the work shall constitute a waiver by CONTRACTOR and CONTRACTOR shall be held responsible for completing the work within the time allocated by this contract.
- 19.3 All requests for extension of time to complete the work shall be made in accordance with the General Conditions for Construction.
- 19.4 For the purpose of this section the phrase "the CITY, its agents and employees" shall include but shall not be limited to the Engineer, project manager and consulting Engineers.

20.0 NON-WAIVER

- 20.1 Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.

21.0 TERMINATION

- 21.1 The City reserves the right to terminate this Agreement at any time by giving thirty (30) days written notice to the Contractor.
- 21.2 In the event of the death of a member, partner or officer of the Contractor, or any of its supervisory personnel assigned to the project, the surviving members of the Contractor hereby agree to complete the work under the terms of this Agreement, if requested to do so by the City. This section shall not be a bar to renegotiations of this Agreement between surviving members of the Contractor and the City, if the City so chooses.

- 22.1 Any disputes that arise between the parties with respect to the performance of this Agreement, which cannot be resolved through negotiations, shall be submitted to a court of competent jurisdiction in Palm Beach County, Florida. This Agreement shall be construed under Florida Law.

23.0 NOTICES

Notices to the City of Boynton Beach shall be sent to the following address:

Lori LaVerriere, City Manager
City of Boynton Beach
P.O. Box 310
Boynton Beach, FL 33425-0310

Notices to Contractor shall be sent to the following address:

Anzco, Inc.
9671 Carousel Circle S
Boca Raton, FL 33434
Attn: John Zak
561-699-3602

24.0 INTEGRATED AGREEMENT

- 24.1 This agreement, together with attachments or addenda, represents the entire and integrated agreement between the City and the Firm and supersedes all prior negotiations, representations, or agreements written or oral. This agreement may be amended only by written instrument signed by both City and Firm.

25.0 PUBLIC RECORDS

- 25.1 Sealed documents received by the City in response to an invitation are exempt from public records disclosure until thirty (30) days after the opening of the Bid unless the City announces intent to award sooner, in accordance with Florida Statutes 119.07.

The City is public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

- A. Keep and maintain public records required by the CITY to perform the service;
- B. Upon request from the CITY's custodian of public records, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, Fla. Stat. or as otherwise provided by law;
- C. Ensure that public records that are exempt or that are confidential and exempt from public record disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and, following completion of the contract, Contractor shall destroy all copies of such confidential and exempt records remaining in its possession once the Contractor transfers the records in its possession to the CITY; and
- D. Upon completion of the contract, Contractor shall transfer to the CITY, at no cost to the CITY, all public records in Contractor's possession. All records stored electronically by Contractor must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

**E. IF THE CONTRACTOR HAS QUESTIONS REGARDING
THE APPLICATION OF CHAPTER 119, FLORIDA
STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE
PUBLIC RECORDS RELATING TO THIS CONTRACT,
CONTACT THE CUSTODIAN OF PUBLIC RECORDS:**

**CRYSTAL GIBSON, CITY CLERK
100 E. OCEAN AVENUE
BOYNTON BEACH, FLORIDA, 33435
561-742-6061
GIBSONC@BBFL.US**

26.0 E-VERIFY

26.1 Contractor certifies that it is aware of and complies with the requirements of Section 448.095, Florida Statutes, as may be amended from time to time and briefly described herein below.

1) Definitions for this Section:

"Contractor" means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration. "Contractor" includes, but is not limited to, a vendor or consultant.

"Subcontractor" means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

"E-Verify system" means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

2) Registration Requirement; Termination:

Pursuant to Section 448.095, Florida Statutes, effective January 1, 2021, Contractors, shall register with and use the E-verify system in order to verify the work authorization status of all newly hired employees. Contractor shall register for and utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of:

- a) All persons employed by a Contractor to perform employment duties within Florida during the term of the contract; and
- b) All persons (including sub-vendors/sub-consultants/sub-contractors) assigned by Contractor to perform work pursuant to the contract with the City of Boynton Beach. The Contractor acknowledges and agrees that registration and use of the U.S. Department of Homeland Security's E-Verify System during the term of the contract is a condition of the contract with the City of Boynton Beach; and
- c) The Contractor shall comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes, but is not limited to registration and utilization of the E-Verify System to verify the work authorization status of all newly hired employees. Contractor shall also require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The Contractor shall maintain a copy of such affidavit for the duration of the contract. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any

challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. Termination of this Contract under this Section is not a breach of contract and may not be considered as such. If this contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of one (1) year after the date of termination.

27.0 SCRUTINIZED COMPANIES - 287.135 AND 215.473

- 27.1 By execution of this Agreement, Contractor certifies that Contractor is not participating in a boycott of Israel. Contractor further certifies that Contractor is not on the Scrutinized Companies that Boycott Israel list, not on the Scrutinized Companies with Activities in Sudan List, and not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has Contractor been engaged in business operations in Syria. Subject to limited exceptions provided in state law, the City will not contract for the provision of goods or services with any scrutinized company referred to above. Submitting a false certification shall be deemed a material breach of contract. The City shall provide notice, in writing, to Contractor of the City's determination concerning the false certification. Contractor shall have five (5) days from receipt of notice to refute the false certification allegation. If such false certification is discovered during the active contract term, Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination of false certification was made in error. If Contractor does not demonstrate that the City's determination of false certification was made in error then the City shall have the right to terminate the contract and seek civil remedies pursuant to Section 287.135, Florida Statutes, as amended from time to time.

"This Agreement will take effect once signed by both parties. This Agreement may be signed by the parties in counterparts which together shall constitute one and same agreement among the parties. A facsimile signature shall constitute an original signature for all purpose."

IN WITNESS WHEREOF, the parties have hereto set their hands and seals on the day and year set forth below their respective signatures.

IN WITNESS WHEREOF, the parties hereto have executed this Contract in multiple copies, each of which shall be considered an original on the following dates:

DATED this _____ day of _____, 20_____.

CITY OF BOYNTON BEACH

ANZCO, INC

Lori LaVerriere, City Manager

(Signature), Authorized Official

Printed Name of Authorized Official

Attest/Authenticated:

Title

Crystal Gibson, City Clerk

(Corporate Seal)

Approved as to Form:

Attest/Authenticated:

James A. Cherof, City Attorney

Witness



PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that _____
(Insert name of Contractor)

_____ as Principal,
(Address or legal title of Contractor)

hereinafter _____ called _____ Contractor, _____ and
(Name and address of Surety)

_____ as Surety, hereinafter called Surety, are held and firmly bound unto CITY OF BOYNTON BEACH, P.O. BOX 310, BOYNTON BEACH, FLORIDA 33425-0310 as Obligee, hereinafter called Owner, in the amount of _____ Dollars (\$_____), for payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____, 20____, entered into a contract with Owner for _____ in accordance with drawings and specifications prepared by _____ which contract is by reference made a part of hereof, and is hereinafter referred to as the Contract.

THIS FORM SHALL BE EXECUTED BY CONTRACTOR AND SUBMITTED
AT AWARD

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform such Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the most responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the most responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of one (1) year from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

This bond is issued in compliance with Section 255.05, Florida Statutes as may be amended. A claimant, except a laborer, who is not in privity with the Contractor and who has not received payment for its labor, materials, or supplies shall, within 45 days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish the Contractor with a notice that he intends to look to the bond for protection. A claimant who is not in privity with the Contractor and who has not received payment for its labor, materials, or supplies shall, within 90 days after performance of the labor or after complete delivery of the materials or supplies, deliver to the Contractor and to the Surety written notice of the performance of the labor or delivery of the materials or supplies and the nonpayment. No action for the labor, materials, or supplies may be instituted against the Contractor or the Surety unless both notices have been given. No action shall be instituted against the Contractor or the Surety on the bond after one (1) year from the performance of the labor or completion of delivery of the materials or supplies.

THIS FORM SHALL BE EXECUTED BY CONTRACTOR AND SUBMITTED
AT AWARD

Signed and sealed this _____ day of _____, 2021.

Principal (Seal)

Witness

Title

Surety

Witness

Attorney-in-Fact

END OF PERFORMANCE BOND

THIS FORM SHALL BE EXECUTED BY CONTRACTOR AND SUBMITTED
AT AWARD



PAYMENT BOND

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT

KNOW ALL MEN BY THESE PRESENTS: that _____
(Insert name of Contractor)

_____ as Principal,
(Address or legal title of contractor)

hereinafter called Principal, and _____
(Name and address of Surety)

_____ as Surety, hereinafter called Surety, are held and firmly bound unto CITY OF BOYNTON BEACH, P.O. BOX 310, BOYNTON BEACH, FLORIDA 33425-0310 as Obligee, hereinafter called Owner, for the use and benefit of claimants as here below defined, in the amount of

_____ Dollars (\$_____), for payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated _____, 2020, entered into a contract with Owner for _____ in accordance with drawings and specifications prepared by _____ which contract is by reference made a part of hereof, and is hereinafter referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material or both, used or reasonably required for use in the

THIS FORM SHALL BE EXECUTED BY CONTRACTOR AND SUBMITTED AT AWARD

performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
 - a. Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which such claimant is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for when the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer.
 - b. After the expiration of one (1) year following the date on which Principal ceased work on such Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
 - c. Other than in a State Court of competent jurisdiction in and for the County or other political subdivision of the State in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.
4. The amount of this bond shall be reduced by and to the extent of a payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics liens which may be filed of record against such improvements, whether or not claim for the amount of such lien be presented under and against this bond.
5. This bond is issued in compliance with Section 255.05, Florida Statutes, as may be amended. A claimant, except a laborer, who is not in privity with the Contractor and who has not received payment for its labor, materials, or supplies shall, within 45 days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish the Contractor with a notice that he intends to look to the bond for protection. A claimant who is not in privity with the Contractor and who has not received payment for its labor, materials, or supplies shall, within 90 days after performance of the labor or after complete delivery of the materials or supplies, deliver to the Contractor and to the Surety written notice of the performance of the labor or delivery of the materials or supplies and the nonpayment. No action for the labor, materials, or supplies may be instituted against the Contractor or the Surety unless both

THIS FORM SHALL BE EXECUTED BY CONTRACTOR AND SUBMITTED AT AWARD

notices have been given. No action shall be instituted against the Contractor or the Surety on the bond after one (1) year from the performance of the labor or completion of delivery of the materials or supplies.

Signed and sealed this _____ day of _____, 2021.

Witness

Principal (Seal)

Surety

Witness

Attorney-in-Fact

END OF PAYMENT BOND

THIS FORM SHALL BE EXECUTED BY CONTRACTOR AND SUBMITTED AT AWARD



**CITY OF BOYNTON BEACH
WARRANTY OF TITLE**

STATE OF FLORIDA

COUNTY OF _____, being first duly sworn, deposes and says
as follows:

He is _____ of _____,
(Title) (Name of Corporation or Firm)

a Florida Corporation () Check One
a Florida General Partnership ()
a Florida Limited Partnership ()
a Sole Proprietor ()

which is named in Construction Contract dated the _____ day of _____,
20____, between such corporation as the CONTRACTOR and the City of Boynton Beach, Florida
as the OWNER, for the construction of
_____ and Affiant is authorized to make this
Affidavit as, or on behalf of, the Contractor as named above.

Title to all work, materials and equipment covered by the attached Final Application for
Payment dated _____, passes to the Owner at the time of payment free and
clear of all liens, and all laborers, material men and subcontractors have been paid for performing or
furnishing the work, labor or materials upon such Contract work covered by the aforesaid Final
Application for Payment.

This statement under oath is given in compliance with Section 713.06 Florida Statutes.

Affiant
Sworn to and subscribed before me this _____ day of _____, 2021.

Notary Public, State of Florida at Large

My Commission expires:
(SEAL)

END OF WARRANTY OF TITLE

THIS FORM SHALL BE EXECUTED BY CONTRACTOR AND SUBMITTED
AT AWARD

City of Boynton Beach
Risk Management
INSURANCE ADVISORY FORM

Under the terms and conditions of all contracts, leases, and agreements, the City requires appropriate coverages listing the City of Boynton Beach as Additional Insured. This is done by providing a Certificate of Insurance listing the City as "Certificate Holder" and "The City of Boynton Beach is Additional Insured as respect to coverages noted." Insurance companies providing insurance coverages must have a current rating by A.M. Best Co. of "B+" or higher. *(NOTE: An insurance contract or binder may be accepted as proof of insurance if Certificate is provided upon selection of vendor.)* The following is a list of types of insurance required of contractors, lessees, etc., and the limits required by the City: **(NOTE: This list is not all inclusive, and the City reserves the right to require additional types of insurance, or to raise or lower the stated limits, based upon identified risk.)**

<u>TYPE</u>	<u>(Occurrence Based Only)</u>	<u>MINIMUM LIMITS REQUIRED</u>
General Liability	General Aggregate	\$ 1,000,000.00
Commercial General Liability	Products-Comp/Op Agg.	\$ 1,000,000.00
Owners & Contractor's Protective (OCP)	Personal & Adv. Injury	\$ 1,000,000.00
Liquor Liability	Each Occurrence	\$ 1,000,000.00
Professional Liability	Fire Damage (any one fire)	\$ 50,000.00
Employees & Officers	Med. Expense (any one person)	\$ 5,000.00
Pollution Liability		
Asbestos Abatement		
Lead Abatement		
Broad Form Vendors		
Premises Operations		
Underground Explosion & Collapse		
Products Completed Operations		
Contractual		
Independent Contractors		
Broad Form Property Damage		
Fire Legal Liability		
Automobile Liability	Combined Single Limit	\$ 300,000.00
Any Auto	Bodily Injury (per person)	to be determined
All Owned Autos	Bodily Injury (per accident)	to be determined
Scheduled Autos	Property Damage	to be determined
Hired Autos	Trailer Interchange	\$ 50,000.00
Non-Owned Autos		
PIP Basic		
Intermodal		
Garage Liability	Auto Only, Each Accident	\$ 1,000,000.00
Any Auto	Other Than Auto Only	\$ 100,000.00
Garage Keepers Liability	Each Accident	\$ 1,000,000.00
	Aggregate	\$ 1,000,000.00
Excess Liability	Each Occurrence	to be determined
Umbrella Form	Aggregate	to be determined
Worker's Compensation		Statutory Limits
Employer's Liability	Each Accident	\$ 100,000.00
	Disease, Policy Limit	\$ 500,000.00
	Disease Each Employee	\$ 100,000.00
Property		
Homeowners Revocable Permit		\$ 300,000.00
Builder's Risk		Limits based on Project Cost
Other - As Risk Identified		to be determined