

**CITY OF MARATHON, FLORIDA
RESOLUTION 2020-21**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA AWARING CONTRACT FOR THE CONSTRUCTION OF THE MARATHON MARINA HURRICANE IRMA REPAIR PROJECT TO SHORELINE FOUNDATION, INC.; APPROVING CONTRACT IN THE AMOUNT OF \$661,845.75, WHICH HAS BEEN OBLIGATED BY FEMA AS REIMBURSABLE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on January 3, 2020, the City of Marathon (the “City”) published An Invitation to Bid for Repairs to the City Marina due to Hurricane Irma (the “Project”); and

WHEREAS, on January 31st, two bids were received with the lowest bid submitted by Shoreline Foundation, (the “Contractor”) and City staff subsequently reviewed and determined the the low bid was complete and the bidder was responsive and responsible; and

WHEREAS, the City finds that accepting the low bid and entering into a contract with the Contractor is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The Contract between the City and the Contractor for the construction of the Project in an amount not to exceed \$661,845.75, a copy of which is attached as Exhibit “A,” together with such non-material changes as may be acceptable to the City Manager and approved as to form by the City Attorney, is hereby approved. The City Manager is authorized to execute the Contract and expend budgeted funds on behalf of the City.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10th DAY OF MARCH, 2020

THE CITY OF MARATHON, FLORIDA



Steve Cook, Mayor

AYES: Bartus, Gonzalez, Senmartin, Zieg, Cook
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



City Attorney

**SECTION 00500
CONSTRUCTION CONTRACT**

This Contract (the "Contract") is dated as of the 30 day of March 2020 by and between the City of Marathon (hereinafter called the "CITY") and Shoreline Foundation, Inc. (hereinafter called "CONTRACTOR") located at:

2781 SW 56th Ave., Pembroke Park, FL 33023.

CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. WORK

Project/Work: CONTRACTOR shall complete all Work as specified or indicated in the Plans, Contract Documents and detailed on **Exhibit A**. The Work is generally described as the following:

The construction of this project consists of labor, materials and equipment necessary to construct a walkway that is ADA accessible, a gangway that is ADA accessible, floating dock part replacements, electrical and water utilities to floating docks, concrete stairs, a concrete ADA ramp, piling with Durosleeve, handrailing around the seawall on the south and west side, and sidewalk extensions. Handrailing on the south seawall shall be Timbertech RadianceRail or approved equal. The floating dock sections that require replacement includes, but is not limited too the utility channels, large dock sections, heavy duty brackets, tie up cleats, and corner gussets. The potable water line will require a support structure to access floating dock. Electrical rewiring to NEC standards for proposed replacement of electrical pedestals will also be required. The city is requesting bids for the Marathon Marina Hurricane Irma Damage Repairs Project.

ARTICLE 2. CITY'S REPRESENTATIVE, ARCHITECT AND ENGINEER

2.1 It is understood that the CITY will designate a representative for the Work. The CITY'S REPRESENTATIVE referred to in any of the Contract Documents designated herein is Carlos A. Solis, P.E. Director of Public Works and Engineering, 9805 Overseas Highway, Marathon Florida 33050.

2.2 The CITY's ENGINEER OF RECORD referred to in any of the Contract Documents designated herein is Weiler Engineering Corporation, Inc, 201 West Marion Ave. Punta Gorda, FL 33950.

ARTICLE 3. TERM

3.1 Contract Term. The Work shall be substantially completed within One Hundred and Twenty (120) calendar days after the date specified in the Notice to Proceed ("Substantial Completion"), and fully completed and ready for final payment in accordance with the Contract

Documents within One Hundred and Fifty (150) calendar days after the date specified in the Notice to Proceed (“Final Completion”).

3.2 Contract Time. The Contract Term shall not commence until the CITY issues to CONTRACTOR a Notice to Proceed and the term of the Contract shall be through the date of final payment unless terminated earlier pursuant to Section 00700 – General Conditions, Article 14, Payments to Contractor and Completion.

3.3 Survival of Obligations. Any obligations by the CONTRACTOR, including but not limited to those set forth in Section 00700 – General Conditions, Article 12, Contractor’s General Warranty and Guarantee, that would or could occur after the date of expiration or termination of the Contract shall survive the termination or expiration of the Contract.

3.4 Liquidated Damages. CITY and CONTRACTOR recognize that time is of the essence in this Contract and that the CITY will suffer financial loss if the Work is not completed within the contract times specified in Section 3.1 for the Work above, plus any approved extensions thereof allowed in accordance with the General Conditions. The CONTRACTOR also recognizes that the damages which the City will incur if the Work is not substantially completed on time and/or fully completed on time are not readily ascertainable at the time this Agreement is entered into, and the CONTRACTOR recognizes the difficulties involved in proving the actual loss suffered by CITY if the Work is not substantially completed on time and/or fully completed on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as liquidated damages to compensate the City and not as a penalty for delay or as an incentive to complete on time, CONTRACTOR shall pay CITY (\$500.00) for each calendar day that expires after the time specified in Section 3.1 for Substantial Completion of the Work. After Substantial Completion, if CONTRACTOR fails to fully complete the Work within the time specified in Section 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY (\$250.00) for each calendar day that expires after the time specified in Section 3.1 for full completion and readiness for final payment. CONTRACTOR agrees that the liquidated damage amounts specified in the Contract Documents bear a reasonable relationship to the actual damages to be suffered due to public inconvenience and damage to the City’s reputation if the CONTRACTOR fails to substantially complete and/or fully complete the Work on time. The liquidated damages are not in compensation for any other damages, and expressly exclude damages for completion CONTRACTOR expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that may be incurred if the work is not substantially completed on time and/or fully completed on time. All liquidated damages amounts will continue to be charged if the CONTRACTOR abandons the Work, or is terminated, and the Work is completed by another party.

3.5 Should the Substantial Completion and/or Full/Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for performance set in Section 3.1 above because of lack of performance by the CONTRACTOR, it is understood and agreed that aside from any liquidated damages, the CONTRACTOR shall be liable to the City for all actual additional costs and/or losses incurred by the CITY including, but not limited to, completion CONTRACTOR expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that incurred because the Work was not substantially completed on time and/or fully completed on time.

3.6 Monies due to the CITY under Sections 3.4 and 3.5 shall be deducted from any monies due the CONTRACTOR, or if no money is due or the amount due is insufficient to cover the amount charged, the CONTRACTOR shall be liable for said amount.

ARTICLE 4. CONTRACT PRICE

4.1 CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to this Article.

4.1.1 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated on the Unit Price Bid Form attached hereto as **Exhibit "B."** CONTRACTOR acknowledges that this is a lump sum contract, and total price for this project is a Not to Exceed amount and that failure to complete work within the defined time and price is at its sole risk. Unit pricing is established for the purpose of addition or deletion of work for this project.

4.2 The CONTRACTOR agrees that all specific cash allowances are included in the above Contract Price and have been computed in accordance with the Contract Documents.

ARTICLE 5. PAYMENT PROCEDURES

5.1 CONTRACTOR shall submit Applications for Payment in accordance with the Section 0700 - General Conditions, Article 14, Payments to Contractor and Completion. Applications for Payment will be processed by CITY as provided in the General Conditions.

5.2 Progress Payments, Retainage. CITY shall make progress payments, deducting the amount from the Contract Price above, on the basis of CONTRACTOR'S Applications for Payment as recommended by the CITY'S REPRESENTATIVE, on or about the last day of each month during construction as provided herein. All such payments will be made in accordance with the schedule of values established in the General Conditions or, in the event there is no schedule of values, as provided in the General Conditions.

5.2.1 No progress payment shall be made until CONTRACTOR delivers to the CITY **certified copies of the performance bond and payment bond establishing that the bonds have been recorded with the county clerk**, complete original partial releases of all liens, bond claims, and claims signed by all Subcontractors, materialmen, suppliers, and vendors, indicating amount of partial payment, on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien, bond claim, or claim could be filed for work completed to date.

5.2.2 No progress payment shall be made until **CONTRACTOR** delivers to **CITY** complete original partial releases and waivers of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors, indicating receipt of partial payment due each for work performed since last progress payment. The partial release shall be accompanied by an affidavit stating that, so far as **CONTRACTOR** has knowledge or information, the releases include and cover all Materials and

Work for which a lien or claim could be filed for work completed to date. The form of the partial release and waiver of lien and affidavit specified herein shall be approved by the CITY.

5.3 The CONTRACTOR agrees that ten percent (10%) of the amount due for Work as set forth in each Application for Payment shall be retained by CITY for each Progress Payment until Final Payment, as defined in Section 0700 - General Conditions, Article 14, Payments to Contractor and Completion.

5.3.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated above, but, in each case, less the aggregate of payments previously made and less such amounts as CITY'S REPRESENTATIVE shall determine, or CITY may withhold, in accordance with the General Conditions.

5.4 The payment of any Application for Payment by CITY, including the Final Request, does not constitute approval or acceptance by CITY of any item of the Work in such Request for Payment, nor shall it be construed as a waiver of any of CITY's rights hereunder or at law or in equity.

5.5 The Final Application for Payment by CONTRACTOR shall not be made until the CONTRACTOR delivers to the City complete original final releases of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed. The CONTRACTOR may, if any Subcontractor, materialmen, supplier or vendor refuses to furnish the required Final Waiver of Lien, furnish a bond satisfactory to City to defend and indemnify City and any other property owner, person or entity City may be required to indemnify against any lien or claim.

ARTICLE 6. INSURANCE/INDEMNIFICATION.

6.1 Insurance. The CONTRACTOR shall secure and maintain throughout the duration of this Contract, insurance of such type and in such amounts necessary to protect its interest and the interest of the CITY against hazards or risks of loss as specified in the General Conditions of the Contract Documents.

6.2 Indemnification. The CONTRACTOR shall indemnify, defend and hold harmless the CITY, their officials, agents, employees, and volunteers as set forth in General Conditions of the Contract Documents.

6.3 This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Agency's sovereign immunity.

ARTICLE 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce CITY to enter into this Contract, CONTRACTOR makes the following representations:

7.1 CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda) and the other related data identified in the Bidding Documents including “technical data.”

7.2 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

7.3 CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work. CONTRACTOR shall abide with all conditions in attached **Attachment A**

7.4 CONTRACTOR has made, or caused to be made, examinations, investigations, tests, or studies as necessary to determine surface and subsurface conditions at or on the site. CONTRACTOR acknowledges that CITY does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to subsurface conditions or underground facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

7.5 The CONTRACTOR is aware of the general nature of Work to be performed by CITY and others at the site that relates to the Work as indicated in the Contract Documents.

7.6 The CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

7.7 The CONTRACTOR has given the CITY’S REPRESENTATIVE written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by the CITY’S REPRESENTATIVE is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

7.8 The CONTRACTOR warrants the following:

7.8.1. Equal Employment: During the performance of this contract, the CONTRACTOR agrees as follows:

(1) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the CONTRACTOR's legal duty to furnish information.

(4) The CONTRACTOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the CONTRACTOR's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the CONTRACTOR's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this

contract may be canceled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The CONTRACTOR will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

7.8.2 Anti-Kickback: The CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the CITY or any other applicable federal or state agency, has any interest, financially or otherwise, in the Project. For breach or violation of this warranty, the CITY shall have the right to declare CONTRACTOR in default, and/or annul this Contract without liability or, in its discretion, to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

CONTRACTOR shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Dept. of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that CONTRACTOR or its subcontractors are prohibited from inducing, by any means, any person employed in the contracted work, to give up any part of the compensation to which he or she is otherwise entitled. The MCSB will report all suspected or reported violations to the federal awarding agency.

7.8.3. Licensing and Permits: The CONTRACTOR warrants that it shall have, prior to commencement of work under this Contract and at all times during said work, all required licenses and permits whether federal, state, County or City.

7.8.4. Debarment/Suspension:

(1) This contract is a covered transaction for purposes of 2 C.F.R. part 180, and 2 C.F.R. part 3000. As such, CONTRACTOR is required to verify that none of the CONTRACTOR, its principals, or its affiliates are excluded (as defined by 2 C.F.R. § 180.94) or disqualified (as defined by 2 C.F.R. § 180.935)

(2) CONTRACTOR must comply with 2 C.F.R. part 180, Subpart C and 2 C.F.R. part 3000, Subpart C, and must include a requirement to comply with these regulations in any lower tier transaction it enters into.

(3) This certification is a material representation of fact relied upon by City. If it is later determined that CONTRACTOR did not comply with the provisions enumerated in subsection 2 of this paragraph, in addition to the remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

ARTICLE 8. CONTRACT DOCUMENTS.

8.1 The Contract Documents listed below, which are listed in their order of precedence for the purpose of resolving conflicts, errors and discrepancies, by this reference shall become a part of the Contract as though physically attached as a part thereof:

8.1.1 Change Orders.

8.1.2 Field Orders.

8.1.3 Contract for Construction.

8.1.4 Exhibits to this Contract.

8.1.5 Supplementary Conditions.

8.1.6 General Conditions.

8.1.7 Any federal, state, county or city permits for the Project

8.1.8 Specifications bearing the title: **Bid Documents for Marathon's Marina Hurricane Irma Damage Repair Project.**

8.1.9 Drawings consisting of a cover sheet and inclusive of all sheets bearing the following general titles: **Marathon Marina Hurricane Irma Damage Repair.**

8.1.10 Bid Documents, including but not limited to: Addendum, Invitation to Bid, Instructions to Bidders, Bid Form provided by CONTRACTOR, Notice of Award and Notice to Proceed.

8.1.11 Addenda subject matter takes the same precedence of the respective subject matter that it is modifying. Furthermore, each subsequent addendum takes precedence over previous addenda.

8.1.12 The documents listed above shall be incorporated into this Contract (except as expressly noted otherwise above).

8.1.13 There are no Contract Documents other than those listed above in this Article. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

8.1.14 The Contract Documents shall remain the property of the CITY. The CONTRACTOR shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided; however, that in no event shall the CONTRACTOR use, or permit to be used, any or all of such Contract Documents on other projects without the City's prior written authorization.

8.1.15 The General Conditions discuss the bond and surety requirements of the CITY. This Contract requires the CONTRACTOR to provide payment and performance bonds, unless stated otherwise in Section 255.05, Florida Statutes.. If the Contract does not require bonds, the references to bonds in the General Conditions do not apply to this Contract.

ARTICLE 9. **Public Records**

9.1 All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Consultant providing services to the City under this Agreement shall be the property of the City.

9.2 The "CONTRACTOR" as defined by Section 119.0701(1)(a), Florida Statutes, and shall comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City Clerk, 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, Florida Statutes or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the City.
4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the CONTRACTOR or keep and maintain public records required by the City to perform the service. If the CONTRACTOR transfers all public records to the City upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City

Clerk, in a format that is compatible with the information technology systems of the City.

9.3 Public Records” is defined in Section 119.011(12), Florida Statutes, and includes all documents, papers, letters, photographs, data processing software, or other material, regardless of physical form, made or received in connection with this Agreement.

9.4 Should the CONTRACTOR assert any exemption to the requirements of Chapter 119 and related law, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the CONTRACTOR.

9.5 The CONTRACTOR consents to the City’s enforcement of the CONTRACTOR’s Chapter 119 requirements by all legal means, including, but not limited to, a mandatory injunction, whereupon the CONTRACTOR shall pay all court costs and reasonable attorney’s fees incurred by the City.

9.6 The CONTRACTOR’s failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by the CONTRACTOR shall be grounds for immediate unilateral cancellation of this Agreement by the City.

9.7 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-743-0033, CITYCLERK@CI.MARATHON.FL.US, OR 9805 OVERSEAS HIGHWAY, MARATHON FLORIDA 33050.

9.8 CONTRACTOR shall comply with all applicable provisions governing FEMA access to public records.

ARTICLE 10. MISCELLANEOUS.

10.1 Terms used in this Contract which are defined in Article 1 of the General Conditions, Section 700, will have the meanings indicated in the General Conditions. Terms used in Article 1 of the Instructions to Bidders, Section 200, also apply to this Contract.

10.2 Except as otherwise provided in the Contract Documents with respect to subcontractors, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party thereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.3 CITY and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

10.4 Severability. Should any provision, paragraph, sentence, word, or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Contract, shall remain unmodified and in full force and effect.

10.5 Remedies. If and when any default of this Contract occurs, the CITY may avail itself of any legal or equitable remedies that may apply, including, but not limited to, liquidated damages specified in Article 3.4, actual damages, and specific performance. Such remedies may be exercised in the sole discretion of the CITY. Nothing contained in this Contract shall limit the CITY from pursuing any legal or equitable remedies that may apply. A default by CONTRACTOR under any contract with the CITY will be a default under all contracts with the CITY. The CITY may apply the proceeds from any contract between CONTRACTOR and the CITY to satisfy amounts owed by the CONTRACTOR to the CITY under any other contract.

10.6 Inspection and Audit. During the term of this Contract and for five (5) years from the date of final completion or Termination, the CONTRACTOR shall allow CITY representatives access during reasonable business hours to CONTRACTOR'S records related to this Contract for the purposes of inspection or audit of such records. If upon an audit of such records, the CITY determines the CONTRACTOR was paid for services not performed, upon receipt of written demand by the CITY, the CONTRACTOR shall remit such payments to the CITY.

10.7 Counterparts. This contract may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.

10.8 Notices. Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

FOR CONTRACTOR:

FOR CITY:

City of Marathon
9805 Overseas Highway
Marathon, Florida 33050
ATTN: City Manager

WITH COPY TO:

City Attorney
9805 Overseas Highway
Marathon, Florida 33050

10.9 WAIVER OF JURY TRIAL AND VENUE. The CITY and CONTRACTOR knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in State and or Federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract, arising out of, under, or in connection with the Work, or any course of conduct, course of dealing, statements or actions or inactions of any party. The venue for any lawsuit arising out of this Contract shall be Monroe County, Florida.


10.10 Attorneys' Fees. If either the CITY or CONTRACTOR is required to enforce the terms of the Contract by court proceedings or otherwise, whether or not formal legal action is required, the parties shall bear their own attorney fees, costs and expenses, at the trial and appellate level.

10.11 Amendments. This Contract may only be amended by the prior written approval of the parties or by execution of a Change Order in the form attached hereto as in Section 00700 General Conditions.

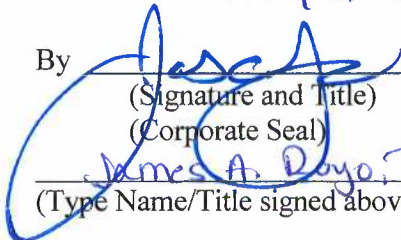
IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: THE CITY OF MARATHON, FLORIDA, signing by and through its Mayor or Vice Mayor, authorized to execute same by Council action on the _____ day of _____, 20____, and by _____ (CONTRACTOR), signing by and through its _____, duly authorized to execute same.

CONTRACTOR

WITNESS

By:  VP
Barry S. Reed

Shoreline Foundation, Inc.
2781 SW 56th Avenue
Pembroke Park, FL 33023

By: 
(Signature and Title)
(Corporate Seal)
James A. Doyo, President
(Type Name/Title signed above)


18th day of March, 2020.

CITY

CITY OF MARATHON, FLORIDA

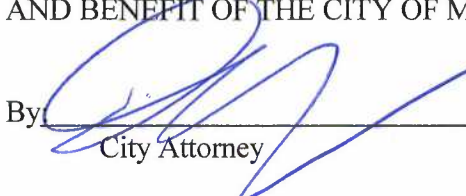
ATTEST

City Clerk


Mayor

30 day of March, 2020

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE CITY OF MARATHON ONLY:

By: 
City Attorney

(*) In the event that the CONTRACTOR is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the contract to do so in its behalf.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, Barry S. Reed, certify that I am the vice President of Shoreline Foundation and that James A. Rojas, who signed the Bid with the City of Marathon, Monroe County, Florida for Shoreline Foundation is President of said Corporation with full authority to sign said **Bid** on behalf of the Corporation.

Signed and sealed this 18th day of March, 2020.


(SEAL) 
Signature

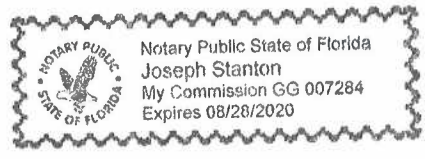
VICE PRESIDENT BARRY REED
Typed w/Title

STATE OF FLORIDA
COUNTY OF BROWARD

SWORN TO AND SUBSCRIBED before me this 18 day of MARCH, 2020

My Commission Expires: 8/28/20


Notary Public



CERTIFICATE AS TO AUTHORIZED CORPORATE PERSONNEL

I, James A. Royo, certify that I am the President of Shoreline Foundation, Inc., who signed the Bid with the City of Marathon, Monroe County, Florida, for the project titled Marathon Marina-Hurricane Irma Damage Repair and that the following persons have the authority to sign **payment requests** on behalf of the Corporation:

[Signature] - James A. Royo, President
(Signature) (Typed Name w/Title)

[Signature] - Barry S. Reed, Vice President
(Signature) (Typed Name w/Title)

[Signature] - John R. McGee, Vice President
(Signature) (Typed Name w/Title)

Signed and sealed this 18th day of March, 2020

(SEAL) [Signature]
Signature
JAMES A ROYO President
Typed w/Title

STATE OF FLORIDA
COUNTY OF MONROE

SWORN TO AND SUBSCRIBED before me this 18 day of March, 2020

My Commission Expires: 8/28/20
[Signature]
Notary Public

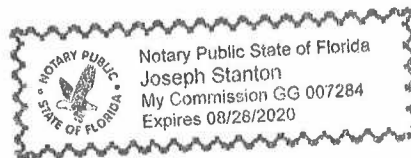


EXHIBIT "A"

SCOPE OF WORK

**City of Marathon
Marathon Marina Dingy Dock Project
Date of Issue: May 22, 2019
By: The Weiler Engineering Corporation**

Briefly described as: The construction of this project consists of labor, materials and equipment necessary to construct a walkway that is ADA accessible, a gangway that is ADA accessible, floating dock part replacements, electrical and water utilities to floating docks, concrete stairs, a concrete ADA ramp, piling with Durosleeve, handrailing around the seawall on the south and west side, and sidewalk extensions. Handrailing on the south seawall shall be Timbertech RadianceRail or approved equal. The floating dock sections that require replacement includes, but is not limited too the utility channels, large dock sections, heavy duty brackets, tie up cleats, and corner gussets. The potable water line will require a support structure to access floating dock. Electrical rewiring to NEC standards for proposed replacement of electrical pedestals will also be required. The city is requesting bids for the Marathon Marina Hurricane Irma Damage Repairs Project. Additional information can be found in the Plan set and Technical specifications.

All sections, addendums and forms from the Bid Documents as bid on January 12, 2020 are to be included as contract documents.

EXHIBIT B

ITEM NO.	DESCRIPTION	UNITS	QUANTITY	UNIT COST	TOTAL COST
SUBTOTAL DIVISION 1					
1	GENERAL				
1.01	Mobilization (not to exceed 5% of total lump sum bid)	LS	1	\$22,000.00	\$22,000.00
1.02	Bonds and Insurance	LS	1	\$36,000.00	\$36,000.00
1.03	Sediment and Erosion Control (BMPs)	LS	1	\$15,325.00	\$15,325.00
1.04	Surveyed As-Builts of Site improvements, Existing Structures & Underground Improvements	LS	1	\$5,803.00	\$15,803.00
SUBTOTAL DIVISION 2					
2	DEMOLITION				
2.01	Demolition of Existing Spin Piles	EA	19	\$2,115.00	\$40,185.00
2.02	Demolition of Broken and cracked Dockage (In water and on land)	LS	1	\$12,036.00	\$12,036.00
2.03	Demolition of Existing Wood piles	EA	3	\$1,003.00	\$3,009.00
2.04	Demolition of Wood landing	LS	1	\$17,198.00	\$17,198.00
2.05	Demolition of Existing Utilities (Water line, EZ-Dock Utility Channel, Electrical wires/conduit, Ex. Power ports, and electrical splices boxes and concrete bank)	LS	1	\$5,103.00	\$5,103.00
SUBTOTAL DIVISION 3					
3	LANDING AND UPLANDS				
3.01	12" Ø Wood Piles w/ Durosleeve	EA	10	\$2,060.00	\$20,600.00
3.02	5000 psi hydraulic Grout	LS	1	\$5,018.00	\$5,018.00

3.03	Simpson SS316 h2.5SS Straps (Aprox. 38)	LS	1	\$730.00	\$730.00
3.04	30" x 8' Hinged Aluminum Transition Plate	LS	1	\$270.00	\$270.00
3.05	Platform Framing (including all lumber)	LS	1	\$4,948.00	\$4,948.00
3.06	Composite Decking (Aprox. 100sf)	LS	1	\$8,153.00	\$8,153.00
3.07	TimberTech RadianceRail (or Eq.)	LS	1	\$14,103.00	\$14,103.00
3.08	NOAA Sign (Installed w/ supports)	LS	1	\$496.00	\$496.00
3.09	Stairs	LS	1	\$20,000.00	\$20,000.00
3.10	Sidewalk Extension	SF	115	\$143.00	\$16,445.00
3.11	Handrail	LF	12	\$158.00	\$1,896.00
3.12	TimberTech Railing South Seawall	LF	95	\$158.00	\$15,010.00
3.13	Seawall Spalling and Chipped Spots	EA	6	\$966.00	\$5,796.00

	SUBTOTAL DIVISION 4				
4	DOCKAGE				
4.01	EZ-Dock Dock Edging (or Eq.)	LF	850	\$55.00	\$46,750.00
4.02	EZ-Dock Pile Brackets (including connectors) (or Eq.)	EA	15	\$3,660.00	\$54,900.00
4.03	EZ-Dock Tie up Cleats (or Eq.)	EA	30	\$270.00	\$8,100.00
4.04	EZ-Dock Corner Gussets (or Eq.)	EA	5	\$425.00	\$2,125.00
4.05	EZ-Dock D Section (including connectors) (80in x 120in) (or Eq.)	EA	3	\$3,080.00	\$9,240.00
4.06	EZ-Dock Double Utility Channel (20") (or Eq.)	LF	545	\$203.00	\$110,635.00
4.07	10" (21 Wood Dock Piles w/ durosleeve	EA	26	\$1,989.00	\$51,714.00
4.08	NOAA Monofilament Recycle Bin	EA	4	\$374.00	\$1,496.00
4.09	Seawall Chipped or Spalling Spots	EA	6	\$966.00	\$5,796.00
4.10	5000 psi hydraulic Grout for 10" (21 Piles	LS	1	\$5,018.00	\$5,018.00
4.11	Extended Heavy Duty Pile Bracket	EA	1	\$1,508.00	\$1,508.00
4.12	UV Resistant Pile Caps for all Piles	LS	1	\$1,274.00	\$1,274.00

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4.13	1 Aluminum Gangway 30'	LS	1	\$17,125.00	\$17,125.00
SUBTOTAL DIVISION 5					
5	UTILITIES				
5.01	Hypower Pedestals (or Eq.)	EA	5	\$3,108.00	\$15,540.00
5.02	2" (21 HOPE Water Piping	LF	525	\$26.50	\$13,912.50
5.03	Fire Hydrant and Water Line Unistrut Structure (including all parts)	LS	1	\$3,292.00	\$3,292.00
5.04	Electrical Panels (SS304)	LS	1	\$10,068.00	\$10,068.00
5.05	Marine Grade Wires and Sch 80 conduit	LF	525	\$17.50	\$9,187.00
5.06	Flexible UV and Water-Resistant Conduit	LF	25	\$6.75	\$168.75
5.07	5000 Psi Concrete Electrical Bank	LS	1	\$7,686.00	\$7,686.00
5.08	Coil Spring Protector Adapter	EA	1	\$354.00	\$354.00
5.09	Sch. 40 2" PVC Water Ball Valve	EA	1	\$461.00	\$461.00
5.10	ISch. 40 2" PVC Water 90 Degree Bends	EA	3	\$395.00	\$1,185.00
5.11	Protective Valve Box	EA	1	\$988.00	\$988.00
5.12	ISch. 40 2" PVC Water Piping	LF	10	\$23.50	\$235.00
5.13	3 1655 support bolts and clamps for 2" HOPE waterline on Ex. Gangway	LS	1	\$2,963.00	\$2,963.00
Total Base Bid					\$661,845.75

Bid Schedule

The Bidder hereby agrees to perform all work as required by the Contract Documents for the following Lump Sum Bid. All work required to be performed by the Contract Documents is to be included within the Pay Items, inclusive of furnishing all manpower, equipment, materials and performance of all operations relative to construction of the project. Work for which there is not a Pay Item will be considered incidental to the Contract and no additional compensation will be allowed. The estimated quantities in the Bid Schedule are provided solely to establish unit prices for potential City-requested additions or deletions to the Contract. It is the Bidder's responsibility to verify all quantities in the Bid Schedule for the lump sum construction project.

Lump Sum Base Bid (Numeric): \$ 661,845.75

Lump Sum Base Bid (Written):

Six Hundred Sixty One Thousand, Eight Hundred Forty Five Dollars and Seventy Five Cent

Attachment A

COMPLIANCE WITH LAWS – The parties shall comply with all applicable local, state, and federal laws and guidelines relating to the services that are subject to this Agreement. Federal regulations apply to all of the City of Marathon contracts using Federal funds as a source for the solicitation of goods and services. The following Federal requirements apply to this Agreement:

I. ACCESS TO RECORDS:

(1) The contractor agrees to provide MCSB, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

II. CLEAN AIR/WATER

Clean Air Act

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The Contractor agrees to report each violation to the School Board and understands and agrees that the School Board will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The Contractor agrees to report each violation to the School Board and understands and agrees that the School Board will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

III. WORK HOURS/SAFETY STANDARDS ACT

(1) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages: The School Board shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

IV. COPELAND ANTI-KICKBACK ACT

Contractor shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Dept. of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United

States”). The Act provides that Contractor or its subcontractors are prohibited from inducing, by any means, any person employed in the contracted work, to give up any part of the compensation to which he or she is otherwise entitled. The MCSB will report all suspected or reported violations to the federal awarding agency.

V. EQUAL EMPLOYMENT

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

VI. DEBARMENT/SUSPENSION

(1) This contract is a covered transaction for purposes of 2 C.F.R. part 180, and 2 C.F.R. part 3000. As such, Contractor is required to verify that none of the contractor, its principals, or its affiliates are excluded (as defined by 2 C.F.R. § 180.94) or disqualified (as defined by 2 C.F.R. § 180.935)

(2) Contractor must comply with 2 C.F.R. part 180, Subpart C and 2 C.F.R. part 3000, Subpart C, and must include a requirement to comply with these regulations in any lower tier transaction it enters into.

(3) This certification is a material representation of fact relied upon by City. If it is later determined that Contractor did not comply with the provisions enumerated in subsection 2 of this paragraph, in addition to the remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

VII. BYRD ANTI-LOBBYING

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an

officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

VIII. FEMA FUNDING ACKNOWLEDGEMENT

This is an acknowledgment that FEMA financial assistance will be used to fund the contract. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.