CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT
CONTRACT FOR DESIGN BUILD SERVICES

This Contract is made as of this 9/11 day of September, 2020 by and between the CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT, a municipal corporation existing under the laws of the State of Florida, hereinafter referred to as the DISTRICT, and CARDINAL CONTRACTORS, INC., a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. number is 80-0388786.

In consideration of the mutual promises contained herein, the DISTRICT and the CONTRACTOR agree as follows:

ARTICLE 1 - SERVICES

The CONTRACTOR's responsibility under this Contract is to provide construction services in the area of 800 West Blue Heron Boulevard at the City of Riviera Beach Utility Special District's Water Treatment Plant , as more specifically set forth in the Scope of Work detailed in Exhibit "A", attached hereto and made a part hereof.

The DISTRICT's representative/liaison during the performance of this Contract shall be John A. Armstrong, P.E., telephone no. (561) 845-3457, email address Jarmstrong@rivierabeach.org .

ARTICLE 2 - SCHEDULE

A. Time of Completion - Construction work must begin within ten (10) calendar days from the date of receipt of official notice to proceed; provided the DISTRICT has received proof of insurance as set forth in Article 11 and a Performance and Surety Bond as set forth in Article 31 in a form satisfactory to the DISTRICT. Construction work shall be carried on at a rate to insure its full completion within four hundred eighty five (485) calendar days from the date of official notice to proceed, the rate of progress and time of completion being essential conditions of this Contract. Construction work of the lime storage and delivery system and the recarbonation system shall be substantially constructed within three hundred eighty five (385) calendar days from the date of official notice to proceed, the rate of progress and time of completion being essential conditions of this Contract.

B. Deduction for not completing on time - If the contract work is not fully complete according to the terms of this Contract within the limits herein stipulated, the CONTRACTOR shall pay the DISTRICT, not as a penalty, but as liquidated damages, a sum equal to seven hundred fifty dollars (750.00) for each day elapsing between the expiration of such time limit and the date of full completion, providing, however, that the time limits herein stated are subject to extension without payment of damages, as provided in Article 17, herein. It is agreed that these liquidated damages are a good faith and reasonable pre-estimate of DISTRICT's actual damages due to delay by CONTRACTOR because it is difficult, if not impossible, to accurately estimate the actual damages suffered by DISTRICT due to any such delay.

C. Reports - Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A."

ARTICLE 3 - PAYMENTS TO CONTRACTOR

A. Generally - The DISTRICT agrees to compensate the CONTRACTOR in accordance with the fee proposal set forth in Exhibit "B". The total and cumulative amount of this Contract shall not exceed the amount of funds annually budgeted for these services. The DISTRICT shall not reimburse the CONTRACTOR for any travel costs incurred as a direct result of the CONTRACTOR providing deliverables to the DISTRICT in pursuance of the scope of work contained in Exhibit A, without specific, prior written approval of the DISTRICT.

B. Progress Invoices - No later than the 20th day of every month, the CONTRACTOR shall prepare and submit, on a form approved by the DISTRICT'S representative, a detailed estimate and invoice of work which has been completed from the start of the job up to and including the last day of the preceding month, together with such supporting evidence of the expenditures as required by this Contract. The CONTRACTOR shall also submit with each invoice an updated revised work schedule. The CONTRACTOR shall include in the Progress Invoice a Warranty of Title indicating that as of the date of Progress Invoice that all work, materials, and equipment covered by the Progress Invoice passes to the DISTRICT at the time of payment of the Progress Invoice and that all laborers, materialmen, and subcontractors have been paid in full for all work, materials, and equipment covered by the Progress Invoice and also provide Partial Releases of Lien and/or Partial Releases of Payment Bond from all laborers, materialmen, and subcontractors as to such work, materials, and equipment covered by the Progress Invoice. DISTRICT has no obligation to pay any Progress Invoice until both a Warranty of Title and Partial Releases of Lien and/or Partial Releases of Payment Bond are provided to DISTRICT.

C. Progress Payments – Progress Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the DISTRICT representative within ten days of receipt of the invoice, indicating that services have been rendered in conformity with the Contract unless the DISTRICT requires clarification or a correction of the invoice. The invoices will be sent to the Finance Department for payment. The CITY will pay to the CONTRACTOR ninety percent (90%) of the value based on the CONTRACTOR's estimate and invoice, as approved by the DISTRICT representative. Invoices will normally be paid within thirty (30) days following the DISTRICT representative's approval.

D. Payment of Expenses - All requests for payment of expenses eligible for reimbursement under the terms of this Contract, if any, shall include copies of said receipts, invoices, or other documentation acceptable to the Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the scope of work described in this Contract. Long distance telephone calls shall identify the person(s) called, purpose of call, time and costs. Mileage charges shall identify the destination, number of miles, rate, and purpose of travel. Duplication charges shall describe the documents, purpose of duplicating, and rate charged. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract, if any, will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

E. Final Invoice - In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "Final Invoice" on the CONTRACTOR's final/last billing to the DISTRICT. This certifies that all services have been properly performed and all charges and costs have been invoiced to the DISTRICT. Since this account will thereupon be closed, any and other further charges if not properly included on this

Final Invoice are waived by the CONTRACTOR and the DISTRICT shall have no obligations for any other costs or expenses thereafter. Further, the CONTRACTOR shall include in the Final Invoice a Warranty of Title indicating that that all work, materials, and equipment covered by this Contract passes to the City at the time of payment of the Final Invoice and that all laborers, materialmen, and subcontractors have been paid in full for all work, materials, and equipment covered by Contract and also provide Final Releases of Lien and/or Final Releases of Payment Bond from all laborers, materialmen, and subcontractors as to such work, materials, and equipment covered by the Contract. DISTRICT has no obligation to pay the Final Invoice until both a Warranty of Title and Final Releases of Lien and/or Final Release of Payment Bond are provided to CITY.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONTRACTOR shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged to the CONTRACTOR'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the DISTRICT determine that the rates and costs were increased due to inaccurate, incomplete or non current wage rates or due to inaccurate representations of fees paid to outside contractors. The DISTRICT shall exercise its rights under this Article 4 within three (3) years following final payment.

ARTICLE 5 - TERMINATION

This Contract may be canceled by the CONTRACTOR upon thirty (30) days prior written notice to the DISTRICT'S representative in the event of substantial failure by the DISTRICT to perform in accordance with the terms of this Contract through no fault of the CONTRACTOR; provided the DISTRICT fails to cure same within that thirty (30) day period. This Contract may also be terminated, in whole or in part, by the DISTRICT, with or without cause, immediately upon written notice to the CONTRACTOR. Unless the CONTRACTOR is in breach of this Contract, the CONTRACTOR shall be paid for services rendered to the DISTRICT'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the DISTRICT, the CONTRACTOR shall:

A. Stop work on the date and to the extent specified.

B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

C. Transfer all work in process, completed work, and other materials related to the terminated work to the DISTRICT.

D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 - PERSONNEL

The CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the DISTRICT.

All of the services required hereunder shall be performed by the CONTRACTOR or under its supervision, and all personnel engaged in performing the services shall be fully qualified and licensed and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONTRACTOR's key personnel, as may be listed in Exhibit "A", must be made known to the DISTRICT's representative and written approval, at DISTRICT's sole discretion, must be granted by the DISTRICT's representative before said change or substitution can become effective.

The CONTRACTOR warrants that all services shall be performed by skilled, properly licensed, and competent personnel to the highest professional standards in their respective field(s).

The CONTRACTOR agrees that it is fully responsible to the DISTRICT for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the CONTRACTOR. Nothing contained herein shall create any contractual relationship between any subcontractor and the DISTRICT.

All of the CONTRACTOR's personnel (and all Subcontractors) while on DISTRICT premises will comply with all DISTRICT requirements governing conduct, safety and security.

ARTICLE 7 - SUBCONTRACTING

The DISTRICT reserves, at its sole discretion and for any reason, the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor by CONTRACTOR and to inspect all facilities and approve all qualifications of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. However, in any event the CONTRACTOR shall be responsible for performing 50% of the work, at a minimum, by its own forces and equipment. Any changes or substitutions in the CONTRACTOR's subcontractors must be made known to the DISTRICT's representative and written approval must be granted by the DISTRICT's representative before said change or substitution can become effective. The CONTRACTOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. Further,

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONTRACTOR shall promptly do so, subject to acceptance, in writing and at the DISTRICT's sole discretion, of the new subcontractor by the DISTRICT. The DISTRICT shall not unreasonably deny the request. However, the CONTRACTOR must demonstrate that the subcontractor being replaced is unable to perform the work, is performing the work poorly or untimely, or is unable to meet the requirements of the contract with the DISTRICT. The DISTRICT will not address issues related to the CONTRACTOR's specific agreement with the subcontractor including issues of pricing.

If subcontractor(s) are used, the CONTRACTOR shall use only licensed and insured subcontractor(s), and shall require any subcontractor, as may be applicable, to provide a payment and performance bond. All subcontractors

shall be required to promptly make payments to any person who, directly or indirectly, provides services or supplies under this Contract.

Third Party Beneficiaries. No provision of this Contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a Party to this Contract, including, but not limited to, any citizen or employees of Contractor and/or the City.

The CONTRACTOR shall be responsible for the performance of all subcontractors.

ARTICLE 8 – SBE PARTICIPATION

Consistent with the City's procurement code, Small Business Enterprises (SBE) shall have the opportunity to participate in this project. CONTRACTOR is hereby informed that the CITY has established a goal of 15% participation of SBE. Contractor is obligated to demonstrate and document a good faith effort toward the attainment of the 15% SBE participation as a condition of this contract. The CONTRACTOR agrees to maintain all relevant records and information necessary to document compliance with the Ordinance, and agrees to allow the CITY to inspect such records and provide such records to the CITY upon request.

ARTICLE 9 - FEDERAL AND STATE TAX

The DISTRICT is exempt from payment of Florida State Sales and Use Taxes. The CITY will sign an exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the CITY, nor is the CONTRACTOR authorized to use the CITY'S Tax Exemption Number in securing such materials.

The CONTRACTOR shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

ARTICLE 10 - AVAILABILITY OF FUNDS

The CITY's performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT BOARD.

ARTICLE 11 - INSURANCE

A. Prior to execution of this Contract by the DISTRICT, the CONTRACTOR shall provide certificates evidencing insurance coverages as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CITY's representative. Compliance with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Contract.

B. The CONTRACTOR shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of $1,000,000.00 per occurrence.

C. The CONTRACTOR shall maintain, during the life of this Contract, commercial general liability, including contractual liability, insurance in the amount of $500,000.00 per occurrence to protect the CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONTRACTOR or by anyone, directly or indirectly, employed by or contracting with the CONTRACTOR.

D. The CONTRACTOR shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of $500,000.00 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles including, but not limited to, leased and rented automobiles, whether such operations be by the CONTRACTOR or by anyone, directly or indirectly, employed by the CONTRACTOR.

E. The parties to this Contract shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, then such party shall. in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the CITY.

F. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the CONTRACTOR shall specifically include the CITY as an "Additional Insured." Further, if CITY is being reimbursed in whole or in part for the cost of the work contemplated by the Contract by any third party, including but not limited to, any County, State, or Federal agency, CONTRACTOR, at CITY's request, will also list any such third party as an "Additional Insured" on all insurance.

ARTICLE 12 - INDEMNIFICATION

To the extent allowed by law, including section 725.06(2), Florida Statutes, the CONTRACTOR shall indemnify and hold harmless the DISTRICT, its agents, officers, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act, recklessness, or intentional wrongful conduct or omission of the CONTRACTOR, its agents, officers, or employees in the performance of services under this Contract, including, but not limited to, to all attorneys' fees and costs incurred by DISTRICT.

The CONTRACTOR further agrees to indemnify and hold harmless the DISTRICT, its agents, officers and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONTRACTOR not included in the paragraph above and for which the DISTRICT, its agents, officers, or employees are alleged to be liable, including, but not limited to, to all attorneys' fees and costs incurred by DISTRICT.

CONTRACTOR shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in

connection with the foregoing indemnifications including, but not limited to, all costs, expert witness fees, reasonable attorney's fees, and court and/or arbitration costs. These indemnifications shall survive the term of this Contract or any renewal thereof.

Nothing contained in this Article shall be construed or interpreted as consent by the DISTRICT to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

ARTICLE 13 - SUCCESSORS AND ASSIGNS

The DISTRICT and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Neither the DISTRICT nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the DISTRICT which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the DISTRICT and the CONTRACTOR.

ARTICLE 14 – DISPUTE RESOLUTION, VENUE, AND REMEDIES

All claims arising out of this Contract or its breach shall be submitted first to mediation in accordance with the local rules for mediation in Palm Beach County, Florida. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 15-REMEDIES

No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 16 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes, Section 112.311. The CONTRACTOR further represents that no person having any such conflicting interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the DISTRICT's representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONTRACTOR's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the DISTRICT as to whether the association, interest or circumstance would, in the opinion of the DISTRICT, constitute a conflict of interest if entered into by the CONTRACTOR. The DISTRICT agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of notification by the CONTRACTOR. If, in the opinion of the DISTRICT, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the DISTRICT shall so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the DISTRICT by the CONTRACTOR under the terms of this Contract.

ARTICLE 17 – DELAYS AND EXTENSION OF TIME

The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the CONTRACTOR's request, the DISTRICT shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR's delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the DISTRICT in its sole discretion, the time of completion shall be extended for any reasonable time that the DISTRICT, in its sole discretion, may decide; subject to the DISTRICT's rights to change, terminate, or stop any or all of the work at any time.

If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the DISTRICT or its employees, or by any other contractor employed by the DISTRICT, or by changes ordered by the DISTRICT or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the DISTRICT pending negotiation or by any cause which the DISTRICT, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the DISTRICT, in its sole discretion, may decide.

No extension of time shall be made for any delay occurring more than seven (7) days before a claim therefore is made in writing to the DISTRICT. In the case of continuing cause of delay, only one (1) claim is necessary.

If no schedule or other agreement sets forth the dates by which drawing(s) shall be furnished, then no claims for delay shall be allowed because of failure to furnish such drawing(s), until two (2) weeks after demand for the drawings and not then unless said claim is reasonable.

The CONTRACTOR's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

ARTICLE 18 - INDEBTEDNESS

The CONTRACTOR shall not pledge the DISTRICT's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 19 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the DISTRICT'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the DISTRICT under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the DISTRICT or at its expense will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the DISTRICT'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the DISTRICT'S expense shall be and remain the DISTRICT'S property and may be reproduced and reused at the discretion of the DISTRICT.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the DISTRICT or at its expense will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the DISTRICT'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the DISTRICT'S expense shall be and remain the DISTRICT'S property and may be reproduced and reused at the discretion of the DISTRICT.

The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the DISTRICT as provided under section 119.011(2), Florida Statutes, specifically agrees to:

(a) Keep and maintain public records required by the DISTRICT to perform the service.

(b) Upon request from the DISTRICT's custodian of public records or designee, provide the DISTRICT 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.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if the Contractor does not transfer the records to the DISTRICT.

(d) Upon completion of this Contract, transfer, at no cost, to the DISTRICT all public records in possession of the Contractor or keep and maintain public records required by the DISTRICT to perform the service. If the Contractor transfers all public records to the DISTRICT 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 DISTRICT, upon request from the DISTRICT's custodian of public records or designee, in a format that is compatible with the information technology systems of the DISTRICT.

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 OR DESIGNEE AT 561-845-3419, crobinson@rivierabeach.org , 1621 W. Blue Heron Blvd., Riviera Beach, FL, 33404.

ARTICLE 20 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONTRACTOR is, and shall be, in the performance of all work, services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the DISTRICT. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR's relationship and the relationship of its employees to the DISTRICT shall be that of an Independent Contractor and not as employees or agents of the DISTRICT.

The CONTRACTOR does not have the power or authority to bind the DISTRICT in any promise, agreement or representation other than as specifically provided for in this Contract.

ARTICLE 21 - CONTINGENT FEES

The CONTRACTOR warrants that it 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 it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 22 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The DISTRICT shall have access to such books, records, and documents as required in this Article for the purpose of inspection or audit during normal business hours, at the CONTRACTOR's place of business.

ARTICLE 23 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, CONTRACTOR shall not discriminate or permit discrimination

against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

ARTICLE 24 - ENFORCEMENT COSTS

All parties shall be responsible for their own attorney's fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

ARTICLE 25 – LICENSES, APPROVALS AND PERMITS

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. This includes, but is not limited to, maintaining all licenses and performing all the duties required under Section 489.128, Florida Statutes. Proof of such licenses and approvals shall be submitted to the DISTRICT's representative upon request.

The CONTRACTOR shall be solely responsible for obtaining, paying for, and complying with all necessary permits, licenses, approvals and authorizations required for any work done pursuant to this Contract from any federal, state, regional, county or city agency.

ARTICLE 26 - SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provisions, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 27 - PUBLIC ENTITY CRIMES

As provided in Sections 287.132-133, Florida Statutes, by entering into this Contract or performing any work in furtherance hereof, the CONTRACTOR certifies that it, its affiliates, suppliers, subcontractors and contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 28 - MODIFICATIONS OF WORK

The DISTRICT reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONTRACTOR of the DISTRICT's notification of a contemplated change, the CONTRACTOR shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change; (2) notify the DISTRICT of any estimated change in the completion date; and, (3) advise the

DISTRICT if the contemplated change shall affect the CONTRACTOR's ability to meet the completion dates or schedules of this Contract.

If the DISTRICT so instructs in writing, the CONTRACTOR shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the DISTRICT's decision to proceed with the change.

If the DISTRICT elects to make the change, the DISTRICT shall initiate a Contract Amendment and the CONTRACTOR shall not commence work on any such change until such written amendment is signed by the CONTRACTOR and approved and executed by the DISTRICT's designated representative and approved by the THE CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT BOARD.

ARTICLE 29 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the DISTRICT shall be mailed to:

CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT
ATTN: JOHN A. ARMSTRONG, P.E.
600 WEST BLUE HERON BOULEVARD
RIVIERA BEACH, FL 33404

and if sent to the CONTRACTOR shall be mailed to:

CARDINAL CONTRACTORS, INC.
ATTN: MICHAEL BRANDAO, VICE PRESIDENT
13794 NW 4TH STREET, SUITE 200
SUNRISE, FL 33431

ARTICLE 30 - ENTIRETY OF CONTRACTUAL AGREEMENT

The DISTRICT and the CONTRACTOR agree that this Contract and any attachments hereto or other documents as referenced in the Contract sets forth the entire agreement between the parties, that there are no promises or understandings other than those stated herein, and this Contract supersedes all prior oral and written agreements between the parties hereto with respect to the subject matter hereof. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 28 - Modifications of Work.

ARTICLE 31 - SPECIAL CONDITIONS

All materials and supplies provided by CONTRACTOR shall be in strict accordance with the plans and specifications approved by the DISTRICT.

The CONTRACTOR shall furnish bonds and maintain said bonds throughout the duration of the project as provided for in Florida Statutes section 255.01 Et. Seq., covering the faithful performance of the Contract and payment of all obligations arising thereunder. The bonds shall be secured by the CONTRACTOR from a surety company licensed

in the State of Florida with an "A- "rating or better in management and a "10" rating or better in strength as rated by Best's Key Rating Guide published by Alfred M. Best Company, Oldwick, New Jersey 08858.

The CONTRACTOR shall be required to provide Surety Bonds in the amount of one hundred percent (100%) of the Contract amount. The required premiums shall be paid for by the CONTRACTOR.

In addition to the above-minimum qualifications, the surety company must meet at least one of the following additional qualifications:

A. The surety company shall hold a current certificate or authority as an acceptable surety of federal bonds in accordance with the United States Department of Treasury Circular 570, Current Revision. The surety company shall provide the DISTRICT with satisfactory evidence that such excess risk has been protected in an acceptable manner.

B. The surety company shall have at least the following minimum ratings in the latest revision of Best's Key Rating Guide: Best's Policy Holders Ratings –A- (minimum); Best Financial Category – Class 1.

C. For projects that do not exceed $500,000, the DISTRICT will accept bonds in accordance with section 287.0935, Florida Statutes.

D. If the surety is declared bankrupt, becomes insolvent, its right to do business in the State of Florida is terminated or it ceases to meet the requirements set forth above, the CONTRACTOR shall within ten (10) working days after notification by the DISTRICT substitute another bond and surety company, at no cost to the DISTRICT, meeting the above requirements.

ARTICLE 32 – INSPECTION OF WORK

The DISTRICT's representative and the DISTRICT's Engineer shall at all times have access to work wherever it is, in preparation or progress, and the CONTRACTOR shall provide proper facilities for such access and for inspection.

If the specifications, the DISTRICT, the Engineer's instructions, laws, ordinances or any public authority requires any work to be specially tested or approved, the CONTRACTOR shall give the DISTRICT Representative and DISTRICT Engineer timely notice of its readiness for inspection. If any such work should be covered up by CONTRACTOR and DISTRICT Representative or DISTRICT Engineer desires to inspect or re-inspect such work for any reason, at the sole discretion of DISTRICT Representative or DISTRICT Engineer, such work must be uncovered for examination, at the CONTRACTOR's expense.

ARTICLE 33– WARRANTY/GUARANTY

All materials and equipment to be furnished and/or installed by the CONTRACTOR under this Contract as it relates to the construction of water treatment plant improvements shall be guaranteed by the Manufacturer, if any, for a period as specified by the manufacturer under normal manufacturer warranties from the date of final acceptance

thereof against defective materials, design and workmanship. The CONTRACTOR shall guarantee all of its work, including but not limited to labor, material, specifications and design for a period of one (1) year. Upon receipt of notice from the DISTRICT of failure of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the CONTRACTOR or Manufacturer at no expense to the DISTRICT. In the event the CONTRACTOR fails to make the necessary repairs or replacements within thirty (30) days after notification by the DISTRICT, the DISTRICT may accomplish the work at the expense of the CONTRACTOR.

The CONTRACTOR shall provide the DISTRICT with a written warranty of its work and with a copy of the manufacturer's warranty as it relates to the materials and parts used as part of this contract.

ARTICLE 34 – PROTECTION OF WORK AND PROPERTY

The CONTRACTOR shall continuously maintain adequate protection of all work from damage, and shall protect such work and the DISTRICT's property from injury or loss arising during the term of the Contract. Except for any such damage, injury, or loss which may be directly due to errors caused by the DISTRICT or employees of the DISTRICT, the CONTRACTOR shall adequately protect adjacent property, as provided by the law, and shall provide guard fences, lights, and any other necessary materials to carry out such protection.

Until acceptance of the work by the DISTRICT, the DISTRICT's property shall be under the charge and care of the CONTRACTOR and the CONTRACTOR shall take every necessary precaution against injury or damage to the work by the action of the elements or from any other cause whatsoever, and the CONTRACTOR shall repair, restore and make good, without additional charge any work occasioned by any of the above causes before its completion and acceptance by the DISTRICT.

ARTICLE 35 – TIME

The parties agree that time is of the essence in all respects under this Contract and failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein or in the exhibits, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

ARTICLE 36 - TERMINOLOGY AND CAPTIONS

All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein", "hereof", "hereunder", "hereinafter" and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof. The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

ARTICLE 37 - WAIVER

Failure of the DISTRICT to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of the DISTRICT's right to enforce or exercise said right(s) at any time thereafter.

ARTICLE 38 - PREPARATION

DISTRICT and CONTRACTOR acknowledge that each has had the benefit of counsel or the ability to retain counsel and full and free access to counsel in connection with the negotiation and execution of Contract, that each has consulted or could have consulted with counsel in connection with this Contract, and that each has had the opportunity, prior to execution, to read this Contract and fully understand all of its provisions. Should any provision in this Contract require judicial or quasi-judicial interpretation it is agreed that a Court or other dispute resolution forum interpreting or enforcing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any party by reason of the rule construction that a document is to be construed more strictly against the party who itself or through its agent has prepared the same. DISTRICT and CONTRACTOR agree that this Contract is the product and result of a joint effort.

ARTICLE 39 - MATERIALITY

All provisions of the Contract shall be deemed material. In the event CONTRACTOR fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and DISTRICT may at its option and without notice terminate this Contract.

ARTICLE 40 - REPRESENTATIONS/BINDING AUTHORITY

CONTRACTOR has full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract. By signing this Contract, Michael Brandao, P.E., Vice President of Engineering hereby represents to the DISTRICT that he/she has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

ARTICLE 41 - EXHIBITS

Each exhibit referred to in this Contract forms an essential part of this Contract. The exhibits, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

ARTICLE 42 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

This Contract consists of this Contract and all exhibits attached hereto. The CONTRACTOR agrees to be bound by all the terms and conditions set forth in this Contract. To the extent that there exists a conflict between this Contract and exhibits, the terms, conditions, covenants, and/or provisions of this Contract shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

ARTICLE 43 - LEGAL EFFECT

This Contract shall not become binding and effective until approved, in writing, by both DISTRICT's designated representative and the CITY OF RIVIERA BEACH UTILITY SPECIAL DISTRICT BOARD.

ARTICLE 44 - NOTICE OF COMPLAINTS OR SUITS

Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Contract. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

ARTICLE 45 – SURVIVABILITY

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

ARTICLE 46 - DEFAULT

Notwithstanding anything contained in this Contract to the contrary, the parties agree that, by way of inclusion and not limitation, the occurrence of any of the following shall be deemed a material event of default and shall be grounds for termination:

A. The filing of a lien or claim of any kind by any subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, upon any property, right of way, easement, other interest in land or right to use such land within the territorial boundaries of the DISTRICT which lien is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONTRACTOR;

B. The filing of any claim, including, but not limited to, a claim against any Payment Bond by any subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, concerning the failure of the CONTRACTOR to pay any such subcontractor or third tier subcontractor including, but not limited to materialmen, suppliers, or laborers, for any work performed or materials supplied pursuant to this Contract;

C. The filing of any judgment lien against the assets of CONTRACTOR related to the performance of this Contract which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONTRACTOR; or

D. The filing of a petition by or against the CONTRACTOR for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of the CONTRACTOR or the CONTRACTOR's property; or an assignment by CONTRACTOR for the benefit of creditors; or the

taking possession of the property of the CONTRACTOR by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of the CONTRACTOR; or if a temporary or permanent receiver or trustee shall be appointed for the CONTRACTOR or for the CONTRACTOR's property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

The CONTRACTOR shall provide written notice to the DISTRICT of the occurrence of any event of default within ten (10) days of CONTRACTOR's notice of any such default.

ARTICLE 47 - WAIVER OF SUBROGATION

CONTRACTOR hereby waives any and all rights to Subrogation against the DISTRICT, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then the CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the CONTRACTOR enter into such an agreement on a pre-loss basis.

ARTICLE 48 - RIGHT TO REVIEW

The DISTRICT, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, therein from time to time throughout the term of this Contract. The DISTRICT reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

ARTICLE 49 – SUBRECIPENT REQUIREMENTS

CONTRACTOR agrees and recognizes that DISTRICT may be seeking reimbursement in whole or in part for the cost of the work contemplated by this Contract from a third party, including but not limited to, various County, State, and Federal agencies or subdivisions. The reimbursement sought by DISTRICT may be dependent upon, among other items, CONTRACTOR's compliance with the terms and conditions of this Contract and the furnishing of Subrecipient Requirement information by CONTRACTOR to DISTRICT. CONTRACTOR agrees to fully cooperate with DISTRICT in any requests of DISTRICT to fulfill DISTRICT's Subrecipient Requirements and to otherwise obtain the sought after reimbursement. CONTRACTOR agrees and recognizes that the failure to comply with all the terms and conditions of this Contract and the furnishing of Subrecipient Requirement information to DISTRICT by CONTRACTOR may result in the DISTRICT failing to obtain the sought after reimbursement in whole or in part for the cost of the work contemplated by this Contract and that such failure by the CONTRACTOR shall constitute a material default under this Contract.

ARTICLE 50 – WAIVER OF TRIAL BY JURY

IN THE EVENT OF LITIGATION ARISING FROM THIS CONTRACT, DISTRICT AND CONTRACTOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY. DISTRICT AND CONTRACTOR HEREBY ACKNOWLEDGE THAT THIS WAIVER PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY AGREEING TO ENTER INTO THIS CONTRACT.

ARTICLE 51 – INSPECTOR GENERAL AND ETHICS

In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR understands that this Contract may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance. The CONTRACTOR further understands and agrees that in addition to all other remedies and consequences provided by law, the failure of the contractor or its subcontractors to fully cooperate with the Inspector general when requested may be deemed by the DISTRICT to be a material breach of this Contract justifying its termination.

This Contract is subject to any and all applicable conflict of interest provisions found in the CITY procurement ordinance (4010), the Palm Beach County Code of Ethics and Ch. 112, Part III, Florida Statutes. During the term of this Contract and any renewals or extensions thereof, the Independent Contractor shall continue to disclose to the CITY any possible conflicts of interests. The CONTRACTOR's duty to disclose is of a continuing nature and any conflict of interest shall be immediately brought to the attention of the DISTRICT.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties unto this Contract have set their hand and seal on the day and year above written.

CITY OF RIVIERA BEACH
UTILITY SPECIAL DISTRICT

BY: _____
JULIA A. BOTEL, Ed.D,
CHAIRPERSON

CORPORATE SEAL
CARDINAL CONTRACTORS, INC.

BY: _____
MICHAEL BRANDAO
VICE PRESIDENT

ATTEST:

BY: _____
CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

APPROVED AS TO TERMS AND CONDITIONS

BY: _____
JIMMIE JOHNSON, PH. D., ICMA-CPM
DIRECTOR OF UTILITIES

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: _____
DAWN S. WYNN
CITY ATTORNEY

Date: 8/29/20