AMENDMENT NUMBER 1 TO CARDINAL CONTRACTORS, INC. CONTRACT FOR DESIGN BUILD SERVICES

This Amendment Number 1 to contract for CARDINAL CONTRACTORS, INC. is made as of this _____ day of March 2021 by and between the City of Riviera Beach Utility Special District, Palm Beach County, Florida a municipal special district existing under the laws of the State of Florida, by and through the Utility Special District, 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 Tax I.D. Number is 80-0388786.

THIS AGREEMENT AMENDS THE CONTRACT FOR DESIGN BUILD SERVICES ENTERED BETWEEN THESE SAME PARTIES DATED SEPTEMBER 2, 2020.

ARTICLE 28 - MODIFICATIONS OF WORK is hereby amended as follows:

A. Definitions:

1. "Change Directive" – A written directive to the CONTRACTOR, issued on or after the effective date of WA(s), signed by the CITY MANAGER, ordering an addition, deletion or revision in the Work in response to an emergency or immediate concern, or in the case of an inability to agree upon the amount of compensation of a requested change. The CONTRACTOR shall proceed upon receipt of a Change Directive to complete the work. A Change Directive may or may not change the WA(s) Contract Price or Time, but is evidence that the parties expect that the change directed or documented by a Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the WA(s) Contract Price and/or Time.
2. "Change Order" – A document recommended by the Engineer, which is signed by the CONTRACTOR and the CITY MANAGER and authorizes a delay, addition, deletion or revision in the Work or an adjustment in the WA(s) Contract Price or the WA(s) Contract Time as set forth in an issued WA(s) and which issued on or after execution of this Agreement.
3. "Engineer" – DISTRICT and its authorized agents, inspectors or representatives acting within the scope of duties entrusted to them by the DISTRICT.
4. "Field Order" – An order by the Engineer that does not impact the cost or time of performance of the Work.
5. "Work" – All of the CONTRACTOR's design, construction, and other services required by Contract documents including, but not limited to, procuring and furnishing all materials, equipment, services, and labor reasonably inferable from the Contract Documents.
6. "Work Authorization" (WA) – A document which, when executed by the CITY MANAGER and CONTRACTOR, becomes a part of the Contract Documents that specifies the scope of work, duration, total price, liquidated damages, and schedule for a specific project to be demolished, repaired, replaced or constructed by CONTRACTOR in accordance with the terms of this Contract. A Work Authorization may be referred to herein as WA(s).

B. The scope, amount, or time provided for in any WA(s) may be amended by issuance of a Change Order, amendment or other written agreement executed by Engineer and CONTRACTOR.

C. **Change Directive.** The Engineer reserves the right to make changes in the Work, including alterations, reductions therein or additions thereto. In addition, should CONTRACTOR be impacted or note changes to the scope of work or time of performance, CONTRACTOR shall have the right to request a change be issued. Upon receipt by the CONTRACTOR of the Engineer's notification of a contemplated change, referred to as a Change Directive (CD), 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 Engineer of any estimated change in the completion date, and (3) advise the Engineer if the contemplated change shall affect the CONTRACTOR'S ability to meet the completion dates or schedules of this Contract.

D. **Conversion of Change Directive.** Upon approval by Engineer as to any adjustments to the Contract Price and/or Contract Time for changes performed under a CD, such approval shall be recorded by the preparation of a Change Order. CONTRACTOR shall not seek payment for work performed pursuant to a CD until it has been converted to a Change Order.

E. **Proper Authorization**. No Change Order shall be valid unless approved by the Engineer, who shall act promptly and reasonably.

F. **Field Order.** Engineer shall have the authority to order minor changes in the Work, which do not involve adjustment to the contract price or contract time and which are consistent with the intent of the Contract Documents by a written Field Order.

G. Commencing work without a written Change Order or Change Directive approved by Engineer in advance of commencement of work waives any claim by CONTRACTOR to an adjustment to the contract price and the contract time related to such work.

H. Execution of any Change Order by the parties shall constitute a final settlement and release by CONTRACTOR of (a) all matters relating to the claim or change in the Work which is subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the contract price and the contract time, and (b) all matters relating to any claim or change in the Work which could have been raised by CONTRACTOR as a change order request at the time, but was not.

I. Each Change Order adjusting the contract price must state within the body of the Change Order whether it is based upon unit price, negotiated lump sum, or "cost of the work." If combined change orders exceeds 10%, the item would have to go before the Board.

J. A bond rider from the surety shall be submitted to Engineer with each Change Order that increases the contract price, so that the bond reflect the total Contract Price, or materially changes the scope of the Work.

K. **Disputed Change Order.** In the event satisfactory adjustment and Change Order cannot be agreed for any item requiring a change in the contract price or contract time, CONTRACTOR shall submit a Claim Notice. Once a Claim Notice is issued the CONTRACTOR, Engineer shall promptly work in good faith to resolve the dispute. Should they fail to resolve the dispute within 30 days of the Claim Notice, the parties shall elevate the dispute discussions to executive management to resolve the dispute and then, should that fail, to dispute resolution by a third party.

L. Should the above dispute resolution process fail, the DISTRICT reserves the right, at its sole option, to either terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the disputed Work. DISTRICT reserves the right to perform the requested changes in the Work with its own forces, or to contract with others to perform the changes.

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

N. The number of change orders to the Contract initiated and submitted by CONTRACTOR may be considered by DISTRICT in considering other subsequent bids submitted by CONTRACTOR. Excessive CONTRACTOR initiated change orders may also result in suspension from DISTRICT's future procurements. The determination of excessiveness shall be made solely by DISTRICT considering the scope of work, schedule of bid items, contract price, unforeseen circumstances, and reasons for any change orders.

ALL OTHER TERMS AND CONDITIONS OF THE CONTRACT FOR DESIGN BUILD SERVICES - ENTERED BETWEEN THESE SAME PARTIES DATED SEPTEMBER 8, 2020 HEREBY REMAIN THE SAME.

CITY OF RIVIERA BEACH
UTILITY SPECIAL DISTRICT

By: _____

Date: _____

CARDINAL CONTRACTORS, INC.

By: _____
Michael Brandao
Vice President

Date: 3.9.2021

APPROVED AS TO LEGAL SUFFICIENCY

By: _____
Dawn Wynn
District Attorney

Date: _____