



CITY OF COCOA CONSTRUCTION CONTRACT

STATE HOUSING INITIATIVE PARTNERSHIP (SHIP)

B-24-07-COC

Rehabilitation of 1058 Grove Avenue



PURCHASING DEPARTMENT

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CITY OF COCOA CONSTRUCTION CONTRACT
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CONSTRUCTION AGREEMENT

THIS AGREEMENT is made this 25 day of April, 2024 by and between PATRIOT RESPONSE GROUP LLC ("Contractor"), whose address is 510 2nd St. SW, Unit C, Vero Beach, FL 32962 and FRANCES L. GRAVES ("Owner"), whose address is 1058 Grove Ave., COCOA, FL 32922.

W I T N E S S E T H:

WHEREAS, Owner owns fee simple title to certain real property located within the City of Cocoa, Florida and which is generally described in Paragraph 3.0 below; and

WHEREAS, Contractor has agreed to perform the construction services provided in this Agreement within the City of Cocoa for Owner on the aforementioned property; and

WHEREAS, for purposes of paying all or part of the construction services provided by Contractor, the Owner has agreed to accept housing assistance (monetary contribution) from the City of Cocoa, Florida ("City") in accordance with the STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) ("Program") and the terms and conditions of this Agreement; and

WHEREAS, Contractor and Owner hereby agree to fully comply with all applicable provisions of the Program; and

WHEREAS, Owner has agreed to appoint the City to act on behalf of said Owner regarding the matters specified in this Agreement.

NOW THEREFORE, for good and valuable consideration, receipt and sufficiency which are hereby acknowledged by the parties, and the mutual promises contained herein, the parties agree as follows:

1.0 Recitals: The foregoing recitals are hereby agreed to be true and accurate and are incorporated herein by this reference.

2.0 City as Agent/Third Party Beneficiary: Contractor acknowledges that pursuant to the provisions of this Agreement, and any related agreements executed by Owner and City (if applicable), the Owner has appointed the City to act on behalf of the Owner regarding the matters contained in this Agreement. Accordingly, all references to the City in this Agreement are understood to evidence the said authority of the City to act on behalf of Owner. The City shall have the exclusive right to enforce the provisions of this Agreement on behalf of Owner. In as much as the City has provided housing assistance to the Owner for the construction services provided under this Agreement, the parties acknowledge the City is a third party beneficiary of this Agreement.

3.0 Project: Contractor agrees to provide construction services to the Owner in substantial conformity to the scope of work approved by the City, a copy of which is attached to this Agreement as *Exhibit "A"* and by this reference incorporated herein in its entirety ("Scope of

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Work”), upon a lot or parcel of real property owned by Owner and located in Brevard County, Florida, generally described as 1058 GROVE AVENUE., COCOA, FL 32922 and legally described in *Exhibit "B"* which is attached to this Agreement and by this reference incorporated herein in its entirety ("Property"). FORMAL QUOTE REQUEST issued by the City of Cocoa on February 15, 2024, and the Contractor response received on March 21, 2024, are incorporated into this agreement by reference as *Exhibits "D" and "E"* respectively. Should any conflicts arise between this agreement and the Exhibits, this agreement will take precedence. Any ambiguity or uncertainty in the Scope of Work shall be interpreted and construed by the City and the City's decision shall be final and binding upon all parties. Contractor agrees to follow the federally required contract clauses attached to this agreement as *Exhibit "F"*.

4.0 Change Orders: On behalf of Owner, City may, at any time, order additions, elections, or deletions to the "Scope of Work" and to the accompanying work performed by Contractor under this Agreement ("Change Orders"). All Change Orders shall be signed by Owner, Contractor and City. All Change Orders shall be deemed fully incorporated in the Scope of Work. If any proposed Change Order will cause an increase or decrease in the Contract Price or an extension or shortening of the Contractor's time for completion of the work, an equitable and reasonable adjustment to the Contract Price provided in Paragraph 5.0 herein, and to the time for completion in Paragraph 7.0 herein, may be mutually agreed on by the Contractor, City, and Owner and indicated upon the signed Change Order. Additions, elections, or deletions to the work performed by the Contractor without authorization of a signed Change Order shall not result in an adjustment in the Contract Price or time for the completion of the work. No additions, elections, or deletions shall be performed by Contractor until a Change Order is properly agreed on and executed.

5.0 Contract Price: The total Contract Price to be paid to the Contractor for Contractor's services hereunder shall be the sum of SEVENTY-FOUR THOUSAND SIX HUNDRED THIRTY ONE DOLLARS (\$74,631). ("Contract Price"). The Contract Price shall be paid as stated in Paragraph 6.0 of this Agreement. The Contractor acknowledges that Contractor studied, considered, and included in Contractor's Contract Price all costs of any nature relating to: (1) performance of the Scope of Work under Florida weather conditions; (2) applicable law, licensing, and permitting requirements; (3) the Property conditions, including but not limited to, subsurface site conditions; and (4) the terms and conditions of this Contract.

6.0 Payment: Contractor shall be paid for the completion of those items of work set forth and authorized in Paragraphs 3.0 and 4.0 above, in U.S. funds, according to the following terms and conditions:

- (a) Payment shall be made through periodic progress payments, on the basis of application to the City as work progresses, and five percent (5%) shall be withheld as retainage until the date of Substantial Completion, subject to the terms herein. As provided in Section 7.0, below, within ten (10) days of Substantial Completion, the Contractor shall create and deliver to City a draft Punchlist detailing Work which must still be completed to reach Final Completion under the terms of this Agreement, and the estimated cost to complete each item. Within thirty (30) calendar days of Substantial Completion, the City shall approve a finalized

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Punchlist. As provided below, the City and Contractor shall coordinate and cooperate in the development of the final Punchlist. Within five (5) calendar days of City finalizing and approving the Punchlist, the City shall deliver the final approved Punchlist to Contractor.

(b) Within twenty (20) calendar days of the delivery of the final approved Punchlist, and only upon receipt of a proper invoice or payment request from Contractor, City shall pay to Contractor the remaining contract balance, including all retainage previously withheld, less an amount equal to 150 % of the estimated cost to complete the items on the Punchlist, except as provided herein. Should no Punchlist be created within the thirty-day timeframe because of the failure of Contractor to cooperate with City, City shall pay to Contractor the remaining contract balance, including all retainage previously withheld, less an amount equal to 150 % of the estimated cost to complete the items on the Punchlist as determined solely by the City. Contractor may submit a proper invoice or payment request for the amount of retainage held to complete the Punchlist items only once all Punchlist items have been completed to the satisfaction of the City. City may continue to withhold retainage if a good faith dispute exists as to whether one or more Punchlist items has been completed in accordance with the terms of this Agreement up to 150% of the total costs to complete those items in dispute.

(c) The remaining retainage amount withheld shall be released with the Final Payment after the issuance of the Final Completion Certificate. The Final Completion Certificate shall be issued upon completion of all remaining Punchlist items. Consent of surety is required for final payment only if a performance bond has been supplied for the Project. City shall make final payment to Contractor within thirty (30) days after the work is fully and properly completed, if the contract has been fully and timely performed, but subject to the condition that final payment shall not be due until Contractor has delivered to City all close-out documentation.

(d) Prior to final payment, City shall require the Contractor to furnish release of all liens from any unpaid work, labor, or materials with respect to Contractor's or any subcontractor's performance under this Agreement, and/or receipt in full covering all work, labor, or materials for which a lien could be filed. All work shall pass building inspection by the City.

(e) For authorized expenditures for work, labor and materials, Contractor shall be paid by City by check drawn on a local lending institution.

(f) Said check shall be in the name of the Contractor. Contractor shall be solely responsible for paying any subcontractors.

(g) Payment to Contractor under this Agreement shall be made pursuant to the contract provided by the City and executed by the Contractor, and the City method of payment shall consist of a minimum of one (1) draw for rehabilitation.

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✱(h) Release of any payment shall be conditioned upon the following: (1)✱ Contractor shall complete and submit to the City a Request for Payment Form provided by the City and submit a Contractor's invoice (if needed); and (2) City has executed, after inspection and approval, a Certificate of Completion for the work performed and indicated on the form.

(i) Payment may be withheld on account of: (1) defective labor, materials, and equipment not remedied upon a request to do so; (2) claims filed; (3) failure of Contractor to make proper payments to subcontractors; or (4) Contractor's failure to perform pursuant to the terms and conditions of this Agreement. Any payment withheld by the City may be used by the City to remedy any of the above-mentioned conditions.

7.0 Contract Time:

(a) All provisions regarding contract time are essential to the performance of this Contract.

(b) *Contract Time.* The Contract Time shall begin to run upon the City's issuance of the Notice to Proceed and original Purchase Order, pursuant to Paragraph 17.0. The Contractor shall sign the Notice to Proceed and deliver it to the City's Project Manager.

(c) *Substantial Completion.* The Work to be performed by Contractor pursuant to this Agreement shall be substantially completed within One-Hundred Eighty (180)-calendar days after the date when the Contract Time begins to run. *3/pts*

The date of Substantial Completion of the Work is the date certified in writing by the City when (1) construction is sufficiently complete, in accordance with the contract documents, so the City can occupy or utilize the work for its intended purpose, as expressed by the contract documents, and (2) any additional project-specific requirements or milestones for "Substantial Completion" identified in the general, special, or technical conditions or construction plans have been satisfied.

(d) *Punchlist Creation and Acceptance.* No more than 10 calendar days following Substantial Completion, the Contractor shall provide to City a draft Punchlist detailing the remaining items and estimated cost of each required to render the Work complete, satisfactory, and acceptable.

City shall review the draft Punchlist and provide any comments to the Contractor. The City and Contractor shall cooperate in the development of the Punchlist regarding both the items to be included and the estimated cost of each. The City shall approve a final Punchlist within thirty (30) calendar days of Substantial Completion. City shall deliver a final approved Punchlist to Contractor no more than five (5) calendar days following final approval of the Punchlist. If the Contractor fails to coordinate with the City to create a Punchlist and the City has given the Contractor written notice of the failure, then the City may withhold 150 percent of the estimated costs required to complete the items the City

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intended to include on the Punchlist, without input from the Contractor, and shall deliver the Punchlist within the time period in this subsection. The failure to include any corrective work or pending items not yet completed on the Punchlist does not alter the responsibility of the Contractor to complete all the Work purchased under this Agreement.

(e) *Final Completion.* The Work shall be finally completed, ready for Final Payment, within thirty (30) calendar days following the date of delivery of the final, approved Punchlist.

(f) In the event that the Work requires phased construction, then multiple points of Substantial Completion may be established in the Supplementary Conditions. If the Work requires phased construction, a Punchlist shall be created for each phase of construction, and the timeline established herein for Punchlist compliance shall be followed for each phase.

(g) If Contractor fails to complete the work within said time period, or any written extension thereof, Owner (with approval of the City) or the City may terminate the Contractor's right to perform the work herein. In such event the Owner or City may take over the work and prosecute the same to completion and the Contractor shall be liable for any excess cost incurred by the Owner or City; and the Owner or City may take possession of and utilize in completing the work such materials, and equipment as may be on the work site and necessary for said completion. If the Owner or City does not terminate the Agreement based on the aforesaid failure to complete the work within the time period, actual damages for delay will be impossible to determine, and, in lieu thereof, Contractor may be required to pay the Owner the sum of \$100.00 as liquidated damages for each calendar day of delay exceeding the Completion Date. The Contractor shall be liable for any liquidated damages claimed hereto and any liquidated damages may be, at the sole option of the City, subtracted from the Contract Price or be required to be paid in cash or by check, in U.S. funds, to the City. Contractor agrees that said sum is not a penalty, but is the stipulated amount of damages sustained by City in the event of default by the Contractor.

SPECIAL CIRCUMSTANCES CLAUSE: The City acknowledges that due to the increased demand, delay and shortage of available materials (i.e. lumber, doors, windows, insulation tiles, flooring, electrical HVAC, etc.) an anticipated 4-6 week lead time may affect the delivery and installation of some materials directly related to the project. Accordingly, the City may issue a Limited Notice to Proceed for the purposes of authorizing procurement of materials which shall not be included in the Contractor's time for completion specified herein.

8.0 Owner's Responsibilities: At the Owner's sole cost and expense, the Owner shall secure the release all easements, liens, and any other encumbrances which would prohibit or hinder the completion of the work provided in this Agreement. If the Owner is unable to secure said releases within a reasonable period of time, this Agreement, with the approval of the City, shall be null and void and neither party shall have any obligations or liability hereunder.

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8.2 The Owner agrees that neither the Owner nor any of Owner's family, friends, tenants, agents, or employees will hinder the Contractor's work required by this Agreement.

8.3 The Owner shall execute all documents required by the City which are related to the prosecution of the work under this Agreement including, but not limited to, any housing grant agreements, construction and work permit applications, mortgages, promissory notes, etc.

8.4 The Owner shall comply with the terms and conditions of any and all agreements executed with the City which are related to this Agreement including, but not limited to, any housing grant agreements, construction and work permits, mortgages, promissory notes, etc.

8.5 Owner shall assist Contractor and City, when necessary, in the performance of work under this Agreement.

9.0 Contractor's Responsibilities: The Contractor shall supervise and direct the work using its best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under this agreement.

9.1 Unless otherwise specifically noted, the Contractor shall provide for and pay for all surveys, labor, work permits, materials, equipment, tools, construction equipment and machinery, transportation, re-inspections, and other facilities and services necessary for the proper execution and completion of the work hereunder.

9.2 The Contractor shall at all times enforce strict discipline and good order among its employees, and shall not employ on the work site any unfit person or anyone not skilled in the task assigned hereunder.

9.3 The Contractor warrants to the Owner and the City that all materials and equipment incorporated in the work will be new unless otherwise specified in the Scope of Work, and that all work will be good quality, free from faults and defects and conform to the Scope of Work. All work not conforming to these standards may be considered defective at the sole option of the City.

9.4 The Contractor shall pay all sales, consumer, use and other similar taxes required by law and shall secure, at its own cost and expense, all permits, fees, and licenses necessary for the execution of the work.

9.5 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the work, and shall immediately notify the City if and when Contractor believes the Scope of Work is at variance herewith.

9.6 The Contractor shall be solely responsible for any and all acts and omissions of the Contractor and any of its employees, subcontractors, agents, and all other persons performing any of the work under this Agreement on behalf of or with the Contractor.

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9.7 As requested by the City, the Contractor shall review and submit all samples, shop drawings, and Scope of Work to the City for approval. The work shall be in accordance with all applicable City, state, or federal laws, and rules and regulations.

9.8 The Contractor shall, at all times keep the premises free from accumulation of waste materials and rubbish caused by Contractor's operations. At the completion of each phase of work, Contractor shall remove all waste materials and rubbish from and about the project site as well as Contractor's tools, construction equipment, machinery and surplus materials, and shall clean all glass surfaces and shall leave the premises "broom clean" or its equivalent, except as otherwise specified. Contractor shall have the exclusive responsibility to keep the work site in a safe, secure, and orderly manner in accordance with construction industry standards.

9.9 All materials stored on the job site shall remain the responsibility of the Contractor until incorporated into the work. The Owner and City will not reimburse the Contractor for materials lost, stolen, or damaged while stored on the job site.

9.10 The Contractor shall be responsible for creation of the required Punchlist(s) as provided herein. Punchlist(s) must be approved by the City.

10.0 Concerning Subcontractor: A subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the work or provide any of the materials and equipment pursuant to this Agreement.

10.1 Promptly after the execution of this Agreement, Contractor shall provide to the City, in writing, a list of names of subcontractors proposed to perform work pursuant to this Agreement. The Contractor shall not employ any subcontractor to whom the City may have reasonable objection. Contracts between the Contractor and the subcontractor shall be consistent and in accordance with the terms of this Agreement.

10.2 Contractor shall insure that any subcontractor performing work pursuant to this Agreement has similar liability insurance coverage as required of Contractor under Paragraph 14.0 of this Agreement. Certificate of such insurance shall be filed with the City prior to subcontractor commencing performance hereunder.

10.3 In the event any work under this Agreement is performed by a subcontractor, the Contractor shall be responsible for any liability directly or indirectly arising out of the work performed under this Agreement by a subcontractor, which liability is not covered by the subcontractor's insurance.

10.4 Nothing in this Agreement shall create any contractual relationship between Owner or City and any subcontractor or other person or organization having a direct contract with Contractor, nor shall it create any obligation on the part of Owner or City to pay or to see to the payment of any moneys due any subcontractor or other person or organization, except as otherwise required by law.

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11.0 Royalties: The Contractor shall pay all royalties and license fees and assume all costs incident to the use of any invention, design, process or device which is the subject of patent rights or copyrights held by others.

12.0 Protection of Person and Property: The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work provided herein. Contractor shall take all reasonable precautions for safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to: (1) all employees at the work site and other persons who may be affected therein, (2) all the work and all materials and equipment to be incorporated therein, and (3) other property at the site or adjacent thereto. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property to protect them from damage, injury or loss.

13.0 Contractor's Liability Insurance: The Contractor shall purchase and maintain such insurance as will protect Contractor from: claims under workmen's compensation acts and other employee benefit acts, claims for damages because of bodily injury (including death), claims for damages to property which may arise out of or result from the Contractor's operations under this Agreement, whether such operations are performed solely by Contractor or by any subcontractor or anyone directly or indirectly employed by any of them. The insurance policies shall also include fire, extended coverage and vandalism and malicious mischief insurance on existing buildings and structures, while in the course of construction, including foundations, additions, attachments, and all permanent fixtures belonging to and constituting a part of said buildings or structures. Certificate of such insurance shall be filed with the City prior to Contractor commencing performance hereunder. Specifically, during the term of this Agreement, Contractor shall be responsible for providing the types of insurance and limits of liability as set forth under this Paragraph. Additionally, all independent contractors or agents employed by Contractor to perform any Work hereunder shall fully comply with the insurance provisions contained in these Contract Documents.

a. The Contractor shall maintain comprehensive general liability insurance in the minimum amount of \$1,000,000 as the combined single limit for each occurrence and in the aggregate to protect the Contractor from claims of property damages which may arise from any Work performed under this Agreement whether such Work are performed by the Contractor or by anyone directly employed by or contracting with the Contractor.

b. The Contractor shall maintain comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit bodily injury and minimum \$1,000,000 property damage as the combined single limit for each occurrence to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims from property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Contractor or by anyone directly or indirectly employed by the Contractor.

c. The CONTRACTOR shall maintain, during the life of this Agreement, adequate Workers' Compensation Insurance in at least such amounts as are required by law and Employer's Liability

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Insurance in the minimum amount of \$500,000 for all of its employees performing Work for the OWNER pursuant to this Agreement.

d. The CONTRACTOR shall maintain comprehensive builder risk insurance, which shall cover CONTRACTOR'S labor, and any materials and equipment to be used for completion of the Work performed under this Agreement, against all risks of direct physical loss, excluding earthquake and flood, for a minimum amount of the Total Contract Price. CONTRACTOR shall maintain the builder risk insurance required by this subsection until final completion.

13.1 If any insurance should be canceled or changed by the insurance company or should any insurance expire during the term of this Agreement, the Contractor shall be responsible for securing other acceptable insurance to provide the coverage specified in this section to maintain continuous coverage during the life of this Agreement.

14.0 Owner Liability Insurance: The Owner is encouraged to purchase and maintain builders risk insurance for the duration of the construction being performed pursuant to this Agreement.

15.0 Contractor's Guarantee of Work: The Contractor shall correct and remedy any work that fails to conform to the requirements of the Scope of Work where such failure to conform appears during the progress of the work. In addition, Contractor hereby warrants and guarantees that all materials, equipment or labor shall be free of defective workmanship for a period of eighteen months from the date that all Certificates of Completion and a Certificate of Occupancy (if required) are issued by the City (with a three year warranty and guarantee for the roof); or within such longer period of time as may be prescribed by law. The provisions of this Paragraph apply to work done by subcontractors as well as to work done by direct employees of the Contractor.

*** 18.0 Written Notice to Proceed:** The Contractor shall not begin the work to be performed hereunder until the City issues Contractor a written Notice to Proceed. The Contractor has seven days after the issuance of Notice to Proceed to begin work.

19.0 Termination by the Contractor: If the City fails to issue payment for a period of thirty (30) days after such payment is due through no fault of the Contractor, and if the Contractor has performed per the Scope of Work, or if the Owner fails to release payment thereon for a period of thirty (30) days after such payment is due through no fault of the Contractor, the Contractor's exclusive remedy, as full and complete settlement of all claims against Owner and City, shall be, upon seven (7) days written notice to the City, to terminate this Agreement and recover from the City payment for all work fully completed and materials provided by Contractor in furtherance of this Agreement, subject to any deductions for damages incurred by City or Owner caused by Contractor's breach of this Agreement.

20.0 Termination by the City/Owner: If the Contractor has defaulted or neglected to carry out the work in accordance with the Scope of Work; or has failed to perform any provision of this Agreement; or has violated a material provision of any regulation, order or rulings of any regulatory body having jurisdiction over this Agreement; or has committed any act of fraud upon

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the City or Owner; or has acted grossly negligent in performing under this Agreement; the City may, after three (3) days written notice to the Contractor and without prejudice to any other remedy it may have, terminate this Agreement and may at its option complete the work required hereunder by any means available and deduct the cost of completion from the Contract Price, and if the unpaid balance of the Contract Price exceeds the expense of finishing the work, such excess shall be paid to the Contractor, but if such expenses exceed such unpaid balance, the Contractor shall pay the difference to the City's account.

21.0 Conflict of Interest: The Owner and Contractor further state that, to the best of their knowledge, no member of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the work under this Agreement has any personal interest, direct or indirect in the Agreement.

22.0 Federal Equal Employment Opportunity Clause: During the performance of this Agreement, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, 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, age, or national origin, such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-off 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 setting forth the provisions of this nondiscrimination clause.

(b) 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 considerations for employment without regard to race, color, religion, sex, age, or national origin.

(c) Penalties for violation of the equal opportunity clause may be imposed upon Contractors and subcontractors by the City or any federal or state agency having jurisdiction hereunder. In addition, the Contractor agrees that if it fails or refuses to comply with these undertakings, the City may take any or all of the following actions: cancel, terminate or suspend in whole or in part this Agreement and refer the case to the Department of Justice for appropriate legal proceedings.

23.0 General Conditions: The Contractor and Owner agree to comply with all applicable federal, state and local laws and regulations governing the funds provided under this Agreement.

24.0 Independent Contractor: Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/

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employee between the parties. The Contractor shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. The City or Owner shall be exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and worker's compensation insurance as the Contractor is an independent contractor.

25.0 Bankruptcy: If bankruptcy proceedings, whether voluntary or involuntary, are commenced against or commenced by Contractor or Owner, or if Contractor or Owner enter into a composition agreement with its creditors, the City, without prejudice and penalty, may terminate this Agreement by giving three (3) days written notice to the Contractor or Owner, as the case may require.

26.0 Severability: Should any section or any part of any section of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid or unenforceable any other section or any part of any section in this Agreement.

27.0 Choice of Law; Venue: This Agreement has been made and entered into in the State of Florida, County of Brevard, and the laws of such state shall govern the validity and interpretation of this Agreement and the performance due hereunder. The parties agree that venue shall be exclusively in Brevard County, Florida, for all state disputes or actions which arise out of or are based upon this Agreement, and in Orlando, Florida, for all federal disputes or actions which arise out of or are based upon this Agreement.

28.0 Integration: The drafting, execution, and delivery of this Agreement by the parties have been induced by no representations, statements, warranties, or agreements other than those expressed herein. This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein. The parties agree that they have both contributed equally to the drafting of this Agreement and the Agreement shall not be construed more favorably against the other in the event of any conflict with regards to the terms and conditions used herein.

29.0 Attorneys' Fees: Should either party bring an action to enforce any of the terms of this Agreement, each party shall bear its own costs and expenses of such action including, but not limited to, reasonable attorney's fees, whether at settlement, trial or on appeal. This provision does not apply to Contractor's surety.

30.0 Headings: All headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

31.0 Waiver: Any waiver by City of any breach or violation of Contractor's or Owner's obligations under this Agreement shall not be construed as a continuance, waiver or consent to any subsequent breach or violation.

32.0 Representations and Warranties: Contractor and Owner represent and warrant that either party shall use all funds received from the City under this Agreement for the sole

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purpose of performing the work and services provided in this Agreement. In the event Contractor or Owner fail to expend such funds for said purpose (Wrongfully Expended Funds), the party responsible for said wrongful expenditure shall fully reimburse the City the Wrongfully Expended Funds plus interest calculated at eighteen percent (18%) per annum. If the City must take any legal action to collect any Wrongfully Expended Funds, the party responsible for said wrongful expenditure shall be liable for all costs incurred by the City to collect such funds including, but not limited to, reasonable attorneys' fees, filing fees, and other costs.

33.0 Accessibility of Records: The City shall have access to any books, documents, paper, computer files and records of the Contractor or Owner, regardless of medium or form, which are directly pertinent to this Agreement for the purposes of making audit, examination, excerpts, and transcriptions. Contractor and Owner shall be required to maintain all records pertinent to this Agreement for five (5) years after the City has made final payment of the Contract Price and all pending matters regarding this Agreement have been closed.

34.0 City's Right of Inspection: The City is hereby granted the right of entry onto the Owner's property for purposes of inspecting the work to be performed, or that has been performed, pursuant to this Agreement, until such time as the City has issued all Certificates of Completion for the work and a Certificate of Occupancy is issued for the single family home being constructed hereunder. Contractor and Owner hereby agree to fully cooperate with the City in permitting the City to conduct said inspections.

35.0 Lead-Based Paint Prohibited: The use of lead-based paint on applicable surfaces of any structure undergoing construction pursuant to this Agreement is prohibited.

36.0 Section 3 Clauses: Not Used

~~If the construction being performed pursuant to this Agreement is funded in any way with Federal financial assistance from the U.S. Department of Housing and Urban Development, the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 170 u. Section 3) shall apply. To the greatest extent feasible, Section 3 requires opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project, and:~~

~~——— **36.1** — The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of the U.S. Department of Housing and Urban Development as set forth in 24 CFR, specifically Part 75, and all applicable rules and orders of the Department issued there under prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual obligations or other disability which would prevent them from complying with these requirements.~~

~~——— **36.2** — Reserved.~~

~~**36.3** — The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the~~

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subcontractor is in violation of regulations issued by the Secretary of the U.S. Department of Housing and Urban Development as set forth in 24 CFR. Contractor will not subcontract with any subcontractor where he has notice or knowledge that the latter has been found in violation of regulations under 24 CFR and will not let any subcontractor unless the subcontractor has first provided him with a preliminary statement of ability to comply with these regulations.

~~36.4~~ Compliance with the provisions of Section 3, the regulations set forth in 24 CFR and all applicable rules and orders of the Department issued there under prior to the execution of this Agreement shall be a condition of the Federal financial assistance provided pursuant to this Agreement binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assignees to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR 135.

37.0 Contractor Representations: Contractor makes the following representations to City:

37.1 Contractor is duly organized and in good standing under the laws of the State of Florida, and is duly qualified and authorized to carry on the functions, responsibilities, and obligations in this Agreement.

37.2 The undersigned signatory for Contractor has the power, authority, and legal right to enter into and perform the obligations set forth in this Agreement and all applicable exhibits thereto, and the execution, delivery, and performance hereof by Contractor has been duly authorized by an appropriate representative of Contractor (Board of Directors or President or Owner). In support of said representation, Contractor agrees (if applicable) to provide a copy to the City of a corporate certificate of good standing or other certificate provided by the State of Florida prior to the execution of this Agreement.

37.3 Contractor is duly licensed under all local, state and federal laws to perform the construction services pursuant to this Agreement. In support of said representation, Contractor agrees to provide a copy of all said licenses to the City prior to the execution of this Agreement.

38.0 Notices: Communication and details concerning this Agreement shall be directed to the following contact representatives:

CITY:

City of Cocoa
Housing & Neighborhood Services
65 Stone Street
Cocoa, FL 32922

CONTRACTOR:

Patriot Response Group, LLC
PO Box 643986
Vero Beach, FL 32964
jfoster@patriotrg.com

39.0 Term: The term of this Agreement shall expire at such time the Contractor has fully completed all its responsibilities and obligations pursuant to this Agreement including, but not limited to, the completion of the project provided in Paragraphs 3.0 and 4.0 herein and the expiration of all warranties and guarantees provided by Contractor hereunder.

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40.0 Indemnification and Hold Harmless: For all services and work performed pursuant to this Agreement, the Contractor agrees to the fullest extent permitted by law, to indemnify and hold harmless the City and its employees and officers, and Owner, from and against all claims, losses, damages, personal injuries (including but not limited to death), or liability (including reasonable attorney's fees), directly or indirectly arising from, or out of the following:

- (a) The acts, errors, omissions, intentional or otherwise, arising out of or resulting from Contractor's or any subcontractors' performance of the services and work being performed under this Agreement.
- (b) Contractor's or any subcontractor's failure to comply with the provisions of any federal, state or local laws, ordinances, or regulations applicable to Contractor's or any subcontractor's performance under this Agreement.
- (c) Any fraud and misrepresentation conducted by Contractor or any subcontractor in the performance or acquisition of services and work under this Agreement.
- (d) Contractor's or any subcontractor's failure to properly expend the funds provided by City or Owner for the work and services provided in this Agreement.
- (e) All claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnisher's of machines and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the services and work being performed under this Agreement.

The indemnification provided above shall obligate the Contractor to defend at its own expense or to provide for such defense, at the option of the City, or Owner, as the case may be, of any and all claims of liability and all suits and actions of every name and description that may be brought against the City or its employees and officers, and Owner, which may result from the services and work performed under this Agreement whether the services and work are performed by the Contractor, by subcontractors, or anyone directly or indirectly employed by the Contractor. In all events the City or Owner shall be permitted to choose legal counsel of its sole choice, the fees for which shall be reasonable and subject to and included with the indemnification provided herein.

The Contractor specifically assumes potential liability for actions brought by Contractor's own employees against the City or Owner and, solely for the purpose of this indemnification and defense, Contractor specifically waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. This waiver has been specifically and mutually negotiated by the parties.

41.0 Sovereign Immunity: The City intends to avail itself of the benefits of Section 768.28, Florida Statutes and any other statutes and common law governing sovereign immunity to

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the fullest extent possible. Neither this provision nor any other provision of this Agreement shall be construed as a waiver of the City's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the City's potential liability under state or federal law. Contractor agrees that City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City shall not be liable for any claim or judgement, or portion thereof, to any one person for over two hundred thousand dollars (\$200,000), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds three hundred thousand dollars (\$300,000). Nothing in this Agreement is intended to inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This paragraph shall survive termination of this Agreement.

42.0 Performance and Payment Bond: ~~Contractor shall supply a materials, performance and payment bond(s) in form approved by the City and in accordance with Florida law and in the amount of the Contract Price specified herein under Exhibit "C".~~ Not Used

43.0 Force Majeure. Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God; fire; flood; windstorm; explosion; riot; war; sabotage; strikes (except involving Contractor's labor force); extraordinary breakdown of or damage to City's affiliates' generating plants, their equipment, or facilities; court injunction or order; federal and/or state law or regulation; or order by any regulatory agency; provided that prompt notice of such delay is given by such party to the other and each of the parties hereunto shall be diligent in attempting to remove such cause or causes. If any circumstance of Force Majeure remains in effect for sixty (60) days, either party may terminate this Agreement. Monetary damages will not be awarded in the event of Force Majeure.

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IN WITNESS WHEREOF, this Agreement is entered into as of the day and year first written above.

WITNESS:

CONTRACTOR:

Patriot Response Group, LLC

Ryan T. Branne 4-25-24
Signature Date

Brian Murphy 4-25-2024
Signature Date

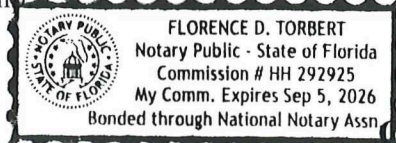
Ryan T. Branne
Print Name

Patriot Response Group, Brian Murphy, PM
Name of Company Rep, Title

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me (☒) by means of physical presence or (☐) online notarization, this 25 day of April, 2024, by Brian Scott Murphy Company Rep who is personally known to me, or produced DL# M610-077-72-105-0 as identification, and who did not take an oath.

Stamp:



Florence D. Torbert 4/25/24
Notary Public Date

WITNESS:

OWNER:

Ryan T. Branne 4-25-24
Signature Date

Frances L. Graves
Signature Date

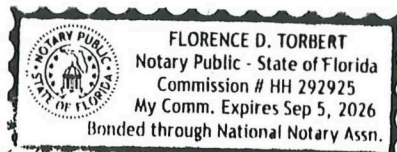
Ryan T. Branne
Print Name

FRANCES L. GRAVES
Print Name

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of (☒) physical presence or (☐) online notarization, this 25 day of April, 2024, by Fran Long Graves, who is personally known to me, or produced DL# 6612-252-62-7700 as identification, and who did not take an oath.

Stamp:



Florence D. Torbert
Notary Public Date

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WITNESS:

**CITY, as agent for OWNER and
Third Party Beneficiary:**

Kathleen Frederick 4/25/24
Signature Date
Kathleen Frederick
Print Name

Stockton Whitten 4/25/2024
Signature Date
Stockton Whitten, City Manager
Print Name

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of (☒) physical presence or (☐)
online notarization, this 25 day of April, 2024, by Stockton Whitten, who is personally known to
me, or produced _____ as identification, and who did not take an oath.

Stamp:

Monica R. Arsenault 4/25/24
Notary Public Date



MONICA R. ARSENAULT
Commission # GG 985789
Expires June 16, 2024
Bonded Thru Budget Notary Services

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EXHIBIT “A”

Scope of Work and Bid Sheet

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EXHIBIT “B”

REAL PROPERTY / LEGAL DESCRIPTION

The land is described as follows:

Project Address: 1058 Grove Avenue, 32922

Subdivision: COCOA ANNEX REPLAT NO 2

Land Description: COCOA ANNEX REPLAT NO 2 LOT 13 & W 30 FT OF LOT 14 BLK D

Parcel: 24-36-32-02-D-13

Plat Book/Page: 0009/0036

Acres: 0.24

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EXHIBIT "C" -Not Used
~~Performance and Payment Bond~~

In compliance with the Florida Statutes Chapter 255.05 (1) (a)

BOND NO.:	
Contractor Name:	
Contractor Address:	
Contractor Phone No.:	
Surety Company:	
Surety Agent:	
Owner Name:	City of Cocoa
Owner Address:	65 Stone St.
	Cocoa, Florida 32922
Owner Phone No.	(321) 433-8833
Owner Fax No.	(321) 433-8860
Owner Email:	Purchasing@cocoafl.org
Contract Date:	
Contract Amount:	\$
Bond Amount:	\$
Contract No. (if applicable):	
Description of Work:	
Project Address:	
Legal Description:	
Bid Number:	

BY THIS BOND, we _____ as Principal
and _____ a Corporation as Surety,
are bound to City of Cocoa, herein called Owner, in the sum
of \$ _____, for payment of which we bind
ourselves, our heirs, Personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

- a. Performs the contract dated _____, 20____, between Principal and Owner
for construction of _____ as specified for the

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- _____ location, the contract being made a part of this bond by reference, at the times and in the manner prescribed in this contract; and
- b. ~~Promptly makes payments to all claimants, as defined in section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for the contract; and~~
 - e. ~~Pays Owner all losses, damages, including delay damages, expenses, and costs that Owner sustains because of a default by Principal under the contract; and~~
 - d. ~~Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract and by law, then this bond is to be void; otherwise it remains in full force and effect.~~
 - e. ~~In any action against this performance bond, the Owner is entitled to attorney's fees under sections 627.428 and 627.756, Florida Statutes, and Danis Industries Corp. v. Ground Improvement Techniques, 645 So.2d 420 (Fla. 1994) and McCarthy Bros. Co. v. Tilbury Construction, Inc., 849 So.2d 7 (Fla. 1st DCA 2003), including appellate attorney's fees.~~

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

IN WITNESS WHEREOF, the said Principal and Surety have assigned and sealed this instrument this _____ day of _____, 20_____.

CONTRACTOR AS PRINCIPAL

Company: _____

(Corporate Seal)

Signature _____

Title _____

SURETY

Company: _____

(Corporate Seal)

Signature _____

Title _____

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EXHIBIT “D”

ITB B-24-07-COC

Published February 15, 2024

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EXHIBIT “E”

Contractor Response

Patriot Response Group LLC

Submitted to the City of Cocoa March 21, 2024

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EXHIBIT "F"

FEDERALLY REQUIRED CONTRACT CLAUSES

FOR GRANTEES AND SUBGRANTEES

1. *Equal Employment Opportunity*

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 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 he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under

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this section, 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 rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering 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 noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 or federally assisted construction 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 portion of the sentence immediately preceding paragraph (1) and 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 the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the

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administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon

2. *Compliance with the Davis-Bacon Act*

The contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week. Attachment B is a copy of the current prevailing wage determination issued by the Department of Labor. These rates may be subject to change based on the January 2022 update.

3. *Compliance with the Copeland "Anti-Kickback" Act*

- a. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Administrator may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment

4. ~~Compliance with the Contract Work Hours and Safety Standards Act~~ — *Not applicable*

- ~~(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 (b)(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 (b)(1) of this section, in the~~

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sum of \$27 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 (b)(1) of this section.

- (3) ~~Withholding for unpaid wages and liquidated damages.~~ The CITY OF COCOA 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 (b)(2) of this section.
- (4) ~~Subcontracts.~~ The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(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 (b)(1) through (4) of this section

~~5. Rights to Inventions Made Under a Contract or Agreement – Not applicable~~

~~Include CFR Title 37 § 401.14 Standard patent rights clauses when applicable~~

~~6. Clean Air Act – Not applicable~~

- ~~a. 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.~~
- ~~b. The contractor agrees to report each violation to the City of Cocoa and understands and agrees that the City of Cocoa will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.~~
- ~~c. 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.~~

~~7. Federal Water Pollution Control Act – Not applicable~~

- ~~a. 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.~~
- ~~b. The contractor agrees to report each violation to the City of Cocoa and understands and agrees that the City of Cocoa will, in turn, report each violation as required to assure notification to the Florida Division of Emergency Management, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.~~
- ~~c. 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.~~

8. Suspension and Debarment

- a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. §

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180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- b. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida and, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

~~9. Byrd Anti Lobbying Amendment, 31 U.S.C. § 1352 (as amended) – Not applicable~~

- a. ~~Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally 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 who in turn will forward the certification(s) to the federal awarding agency.~~

10. PROCUREMENT OF RECOVERED MATERIALS

- a. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- b. Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- c. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

11. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

- a. Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection

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arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

b. Prohibitions.

i. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

ii. Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

1. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
2. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
3. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
4. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

c. *Exceptions.*

i. This clause does not prohibit contractors from providing—

1. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
2. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

ii. By necessary implication and regulation, the prohibitions also do not apply to:

1. Covered telecommunications equipment or services that:

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- a. Are *not used* as a substantial or essential component of any system; *and*
 - b. Are *not used* as critical technology of any system.
- 2. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
- d. *Reporting requirement.*
 - i. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
 - ii. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - 1. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - 2. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
- e. *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

12. DOMESTIC PREFERENCES FOR PROCUREMENTS

- a. As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause:

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- i. Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- ii. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

13. Access to Records

The following access to records requirements apply to this contract:

- (1) The contractor agrees to provide the City, the State of Florida, the Federal 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 Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

14. DHS Seal, Logo, and Flags

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific Federal preapproval.

15. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that federal financial assistance will be used to fund the contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, policies, procedures, and directives.

16. No Obligation by Federal Government

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.

17. Program Fraud and False or Fraudulent Statements or Related Acts

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. *Byrd Anti-Lobbying Amendment*
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.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any

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cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

18. *Affirmative Socioeconomic Steps*

If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

By the signature(s) below, I/we, the undersigned, as authorized signatory of the firm, understand and agree to all the applicable federal terms and provisions provided herein.

Company Name:

Patriot Response Group

Address:

PO BOX 643986

Telephone:

(321) 604-1217

Email:

bmurphy@patriotrg.com

Brian Murphy
Authorized Signature

Date

Brian Murphy
Name

Project Manager
Title