

**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Alachua, a municipality in Alachua County, Florida (Owner) and Andrews Paving, Inc. (“Contractor”). Owner and Contractor hereby agree as follows:

**ARTICLE 1 – THE PROJECT SUMMARY**

- 1.1 The Project for which the Work under the Contract Documents is described as follows:
- A. The name of the project is City of Alachua Lift Station #1 Conversion and Expansion Project, Phase II Drywell Conversion, located in Alachua, Florida.
  - B. Summary of Work:
    - 1. This project includes the work required to convert the existing City of Alachua (Owner) Lift Station #1 drywell to a wetwell as shown in the construction plans, to connect to the existing stubbed out forcemain, to abandon the existing effluent line associated with the existing drywell, and to construct the paved access area. Modifications to the existing wetwell and installation of a portion of the forcemain was completed in a previous phase of the project.
  - C. Work Scope: See Exhibit A
  - D. Work Location:
    - 1. Work is located at 13675 NW 147th Avenue, Alachua, Florida
    - 2. See Map, Exhibit A.

**ARTICLE 2 – WORK**

- 2.1. Contractor shall complete all Work as specified in the electronic documents (Technical Specifications and Drawings) stored on the compact disc (CD) attached hereto and incorporated as Exhibit A, and, further, in accordance with the Contract Documents.

**ARTICLE 3 – PROJECT SUPERVISION**

- 3.1 Rodolfo Valladares, P.E. City Public Services Director, has been designated to assume all duties and responsibilities and have the rights and responsibilities assigned to Owner in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

**ARTICLE 4 – CONTRACT TIMES**

- 4.1 Time of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

#### 4.2 Dates for Substantial Completion and Final Payment

- A. The Work will be substantially completed on or before December 28, 2018 and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions, attached and incorporated as Exhibit B, on or before February 15, 2019.

#### 4.3 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.1 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.2 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$1,000.00 for each day that expires after the time specified in Paragraph 4.2 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$1,000.00 for each day that expires after the time specified in Paragraph 4.2 above for completion and readiness for final payment until the Work is completed and ready for final payment.

### ARTICLE 5 – CONTRACT PRICE

- 5.1. Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.1.A below:
  - A. For all Work, a lump sum of: One Hundred eighty-eight thousand eight hundred and thirty-seven DOLLARS and fifty cents (\$188,837.50) as established and set forth on the attached and incorporated Exhibit C. There are no cash allowances included in the above price.

### ARTICLE 6 – PAYMENT PROCEDURES

#### 6.1 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment on Application for Payment form in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Owner as provided in the General Conditions.

#### 6.2 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of

Contractor Applications for Payment on or about the last day of each month during performance of the Work as provided in Paragraph 6.2.A.1 below. All such payments will be measured by the schedule of values established as a part of Contractor's Bid Exhibit C and, in the case of Unit Price Work based on the number of units completed.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions, not to exceed 90 percent of Work completed (with the balance being retainage). If the Total Work has been 50 percent completed and determined by Owner that at any point the character and progress of the Work have been satisfactory then, as long as the character and progress of the Work remain satisfactory to Owner, there will be no additional retainage; and
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts as Owner shall determine in accordance with Paragraph 14.02. B.5 of the General Conditions and less 200 percent of Owner estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected.

### 6.3 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as provided in said Paragraph 14.07.

## **ARTICLE 7 – INTEREST**

- 7.1. All moneys not paid by Owner when due as provided in Article 14 of the General Conditions shall bear interest in accordance with and as provided in F.S. 218.735, Local Government Prompt Payment Act.

## **ARTICLE 8 – CONTRACTOR REPRESENTATIONS**

- 8.1 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
  - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
  - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress and performance of the Work.
  - C. Contractor is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.
  - D. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and

observations obtained from visits to the Site; the Contract Documents; the related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and, (3) Contractor safety precautions and programs.

- E. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relate to the Work as indicated in the Contract Documents.
- F. Based on the information and observations referred to in Paragraph 8.1.A, B, C, D, and E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies or data are necessary for the performance of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies, if any, that Contractor has discovered in the Contract Documents, and any written resolution thereof by Owner is accepted by Contractor.
- H. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**ARTICLE 9 – CONTRACT DOCUMENTS**

9.1 *This Agreement plus Exhibits;*

<b>Contract Documents</b>	<b>Contract Exhibits</b>
<ul style="list-style-type: none"> <li>A. One printed copy of the Construction Specifications for the City of Alachua Lift Station #1 Conversion and Expansion Project Phase 2 - Drywell Conversion and Drawings will be delivered to Contractor, along with the electronic copy on Compact Disc being attached hereto as Exhibit A. A printed and signed copy of both will be on file with the City and maintained as the Master Copy. The Master Copy will control in resolving any challenges or disputes concerning the contract documents. Shop Drawings and other Contractor submittals are not Drawings as so defined.</li> <li>B. General Conditions</li> <li>C. Bid Form – Schedule of Values</li> <li>D. Insurance Requirements</li> <li>E. Drug-Free Workplace Form</li> <li>F. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</li> <li>G. Florida Statutes on Public Entity Crimes Form</li> </ul>	<p>A</p> <p>B</p> <p>C</p> <p>D</p> <p>E</p> <p>F</p> <p>G</p>

H. Bid Bond - \$1,000.00 or 1% of Bid Price, whichever is greater, delivered with Bid package. H

9.2 The following may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

- a. Notice to Proceed
- b. Performance Bond
- c. Payment Bond
- d. Application for Payment
- e. Change Order
- f. Certificate of Substantial Completion

9.3 The documents listed in Paragraph 9.1.A are attached to this Agreement.

9.4 There are no Contract Documents other than those listed above and incorporated herein in Article 9.1 and 9.2.

9.5 The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

## ARTICLE 10 – MISCELLANEOUS

### 10.1 *Terms*

A. Terms used in this Agreement will have the meanings stated in the General Conditions.

### 10.2 *Assignment of Contract*

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

### 10.3 *Successors and Assigns*

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

### 10.4 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### 10.5 *Insurance Requirements*

- A. Attached and incorporated as Exhibit D.

#### 10.6 *Contractor Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.6:
  - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### 10.7 *Public Records*

- A. Contractor shall allow public access to all documents, papers, letters or other material subject to the provisions of 119, Florida Statute (F.S.) made or received by Contractor in conjunction with this Contract. Specifically, Contractor must:
  - 1. Keep and maintain public records that ordinarily and necessarily would be required by City (OWNER) in order for City to perform the services being performed by Contractor.
  - 2. Provide the public with access to public records on the same terms and conditions that City would provide the records and at a cost that does not exceed the cost provided in 119, F.S., or as otherwise provided by law.
  - 3. Ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law.

4. Meet all requirements for retaining public records or transfer, at no cost to City, all public records in possession of Contractor upon termination of the contract. All records stored electronically must be provided to City in a format that is compatible with the information technology systems of City.

Contractor must promptly provide City with a copy of any request to inspect or copy public records in possession of Contractor and shall promptly provide City a copy of Contractor response to each such request. Failure to grant such public access will be grounds for immediate termination of this Contract by City.

This provision will apply to all services provided unless Contractor can demonstrate by clear and convincing evidence that it is not or was not acting on behalf of City under Florida law. The Contractor will be held liable for plaintiff attorney fees and costs if a suit is properly filed and the court finds that the Contractor unlawfully refused to comply with a public records request within a reasonable time.

The Contractor shall contact Deputy City Clerk Alan Henderson, Custodian of City Public Records, at (386) 418-6104 or [ahendredson@cityofalachua.com](mailto:ahendredson@cityofalachua.com), concerning any questions the Contractor may have regarding the duty of Contractor to provide Public Records.

#### 10.8 *The Right to Audit*

- A. The Contractor agrees to furnish such supporting detail as may be required by the Owner to support charges or invoices, to make available for audit purposes all records covering charges pertinent to the purchase and to make appropriate adjustments in the event discrepancies are found. The Owner will pay the cost of any audit. The Owner shall have the right to audit the Contractor's records pertaining to the work/product for a period of three (3) years after final payment.

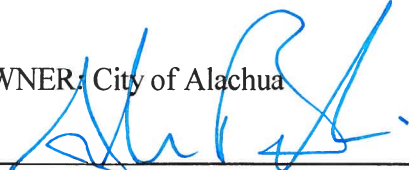
#### 10.9 *Compliance with Purchasing and Sales Policy and Regulations*

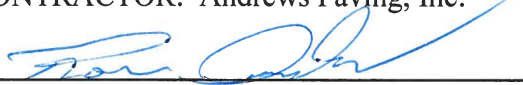
- A. City has adopted, published on its Web Site [www.cityofalachua.com](http://www.cityofalachua.com) and requires that all who do business with the City of Alachua agree and adhere to its CITY PURCHASING AND SALES POLICY AND REGULATIONS. Contractor acknowledges notice of such requirement and accepts, understands, and pledges the commitment to act accordingly.

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Signature Page Follows**

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on 6/25/18 (which is the Effective Date of the Agreement).

OWNER: City of Alachua  


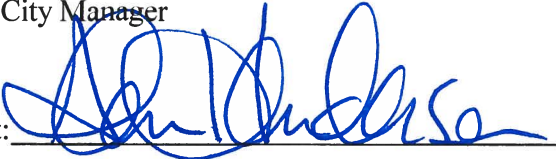
CONTRACTOR: Andrews Paving, Inc.  


By: Adam Boukari

By: Ron Andrews

Title: City Manager

Title: President

Attest: 

Attest: Liane Muscato

Name Alan Henderson

Name Diane Muscato

Title: Deputy City Clerk

Title: Project Admin

Address for giving notices:

Address for giving notices:

~~Traci Gresham~~ Adam Boukari City Manager

Andrews Paving, Inc

P.O. Box 9

1327 NW 123rd Pl

Alachua, Florida 32616

Gainesville FL 32653

Agent for service of process: