

## SECTION 00500 – AGREEMENT

This Agreement made this 27<sup>th</sup> day of September, 2021 by and between the City of Crystal River hereinafter called "Owner", and Pospiech Contracting Inc. doing business as a corporation hereinafter call "Contractor", for the construction of the Indian Waters Phase I Septic to Sewer Project.

**WITNESSETH:** That for and in consideration of the payments and agreements hereinafter mentioned:

1. The Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for construction and completion of the work described in the Contract Documents and comply with the terms therein for the sum of \$1,466,785.00 or as shown in the Bid Schedule.
2. The Owner will require that the Contractor furnish a Performance and Payment Bond in an amount equal to 100% of the Contract Price. All Payment and Performance Bonds shall be secured from or countersigned by an agency or surety company recognized in good standing and authorized to do business in the State of Florida.
3. The Contractor will purchase and maintain such comprehensive general liability and other insurance such as required by the General and Supplementary Conditions and furnish Certificates of Insurance to the Owner within ten (10) calendar days from the date of the Notice of Award.
4. The Contractor will commence the work required by the Contract Documents within ten (10) calendar days after the date of the Notice to Proceed and will achieve Substantial Completion (**operational**) within 180 calendar days. The date of Final Completion will be 45 calendar days following the date of Substantial Completion. Unless the period for Substantial Completion is extended otherwise by the Contract Documents, the Contractor will be assessed liquidated damages in the amount of \$500 per calendar day past the date of Substantial Completion. In addition, for Final Completion, the Contractor will be assessed liquidated damages in the amount of \$500 per calendar day past the date of Final Completion.
5. The Owner will pay to the Contractor in the manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents.
6. Progress payments will be made in an amount equal to 90% (ninety percent) of the value of work completed and may include 90% (ninety percent) of the value of materials and equipment not incorporated into the work, but delivered and suitably stored, less, in each case, the aggregate of payments previously made. At the sole discretion of the Owner, monthly progress payments may be increased after 50% (fifty percent) of the work is completed to 95% (ninety-five percent) of the value of work completed and materials and equipment not incorporated but delivered and suitably stored (less the aggregate of previous payments) provided that:
  - (a) Contractor is making satisfactory progress, and
  - (b) There is no specific cause for greater withholding.However, the Owner may subsequently resume retaining 10% (ten percent) of the value of work completed and materials delivered if, in sole determination of the Owner, the Contractor is not performing according to the Contract Documents or not complying with the current progress schedule.
7. The Contractor will provide the Owner with a list of all Sub-contractors and Suppliers used by the Contractor in performing the work covered by this Contract. The Contractor will be required to submit to the Owner appropriate partial Release of Lien from the appropriate Suppliers and Sub-contractors with each Application for Payment before payment is made by the Owner. Final payment will be paid to the Contractor when the Contractor and all Sub-contractors and Suppliers have provided the Owner with their final Release of Lien.

8. The term "Contract Documents" means and includes the following:
- (a) Invitation for Bids
  - (b) Instruction to Bidders
  - (c) Bid
  - (d) Bid Bond
  - (e) Agreement
  - (f) Performance and Payment Bond
  - (g) Certificate of Insurance
  - (h) General Conditions
  - (i) Supplementary Conditions
  - (j) Notice of Award
  - (k) Notice to Proceed
  - (l) Change Order Form
  - (m) Application for Payment Form
  - (n) Certificate of Substantial Completion
  - (o) Contract Documents prepared or issued by Kimley-Horn and Associates, Inc. dated September 2021.
  - (p) Drawings prepared or issued by Kimley-Horn and Associates, Inc. sheets C001 through CO17 dated September.
  - (q) Addenda as Follows:
 

No. <u>1</u> dated <u>July 2021</u> ,	No. _____ dated _____,
No. <u>2</u> dated <u>July 2021</u> ,	No. _____ dated _____,
No. _____ dated _____,	No. _____ dated _____,
9. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
10. The Contractor agrees that all materials, techniques, methods and safety are exclusively the responsibility of the Contractor and not the Engineer or Owner.
11. Contractor agrees to immediately notify Owner if Contractor is adjudged as bankrupt or insolvent or makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the Contractor or for any of its property, or if Contractor files a petition or take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws.
12. The Contractor shall indemnify and save harmless the City of Crystal River its officers, agents and employees from all suits, actions or claims of any character, name and description brought for, or on account of any injuries, deaths or damages received or sustained by any person, persons or property by or from the Contractor, his agents or employees, or by, or in consequence of, any neglect in safeguarding the work or through the use of unacceptable materials in the construction of the improvement, or by, or on account of, any act or omission, neglect, or misconduct of the Contractor, his agents or employees, or by, or on account of, any claims or amounts recovered for any infringement of patent, trademarks, or copyright or from any claims or amounts arising or recovered under the Workmen's Compensation Law or any other laws, by-laws, ordinances, order or other decree, and so much of the money due to Contractor under any virtue of his contract as shall be considered necessary to the Engineer, may be retained for use of the Owner, or in case of money is due, his Surety shall be held until such suit or lawsuits, action or actions, claim or claims, for injuries, deaths or damages, as aforesaid, shall have been settled and suitable evidence to that effect furnished to the Owner. The Contractor agrees to furnish insurance coverage in the type and amounts stipulated by the Specifications and Contract Documents.
13. The breach of any provision of this contract and those provisions stated more fully in the specifications for the Indian Waters Phase I Septic to Sewer, dated June 2021 shall entitle Owner to collect damages against Contractor and if necessary, to seek injunctive relief against Contractor, and to collect costs and attorney's fees through all appeals.

IN WITNESS WHEREOF, the parties thereto have executed, or caused to be executed by their duly authorized officials, this Agreement in triplicate each of which shall be deemed an original on the date first above written.

OWNER: City of Crystal River

BY: \_\_\_\_\_

NAME: Joe Meek  
(Print/Type)

TITLE: Mayor

DATE: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

NAME: Mia Fink  
(Print/Type)

TITLE: City Clerk

CONTRACTOR: Pospiech Contracting Inc.

BY: 

NAME: William Barron  
(Print/Type)

ADDRESS: 201 South Apopka Avenue  
Inverness, FL 34452

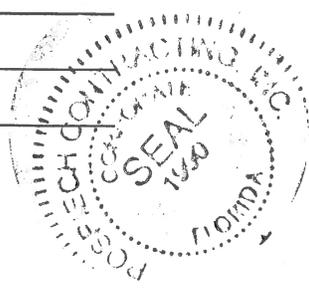
DATE: 9/21/2021

ATTEST:



NAME: Margaret Durham  
(Print/Type)

TITLE: Asst. Sec./Controller



**END OF SECTION**