



CONTRACT

THIS CONTRACT, made and entered into this ____ day of April, 20____, by and between:

CITY OF MARGATE, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, 5790 Margate Blvd., Margate, Florida, 33063, (hereinafter referred to as "CITY"); and Erosion Barrier Installations, Corp. (hereinafter referred to as "CONTRACTOR").

W I T N E S S E T H:

IN CONSIDERATION of the mutual covenants and conditions as herein expressed and of the faithful performance of all such covenants and conditions, the parties do mutually agree as follows:

ARTICLE I

THE CONTRACT DOCUMENTS

The Contract Documents consist of all of the following: Request for Proposal (RFP) 2020-005 document in its entirety, CONTRACTOR'S executed RFP Proposal Form, Offeror's Certification Form, Non-Collusive Affidavit, Offeror's Qualification Statement, Byrd Anti Lobbying Certification, Scrutinized Companies Certification, Statement of Compliance, CONTRACTOR'S response and submissions of all forms and clarifications related to RFP 2020-005, all addenda and acknowledgements, which are made a part of this contract, and any additional documents which are required to be submitted under the Contract, and all amendments, modifications and supplements issued on or after the effective date of the Contract.

ARTICLE 2

SCOPE OF THE WORK

CONTRACTOR shall furnish all of the labor, materials, equipment, transportation, supplies, and services necessary to perform all of the work required by the Contract Documents for:

RFP NO. 2020-005

Supply and Installation of Erosion Barrier Tubing

This contract shall be governed in accordance with the Procurement Requirements for Federal grants, as provided for in Title 2 Code of Federal Regulations (CFR) Part 200 in order to be eligible for reimbursement under the Public Assistance Program. All applicable requirements including Davis-Bacon wage requirements and other Title 2 Code of Federal Regulations (CFR) Part 200 stipulations shall apply to this contract.

ARTICLE 3

CONTRACT TIME

The work to be performed under this Contract shall be commenced upon the date of Contract Commencement specified in the Notice to Proceed. The contract period shall be for a period of (3) three years with the option to renew the contract for (2) two additional (1) one year terms.

ARTICLE 4

RATES

1. The CONTRACTOR shall invoice for payment for work completed. Payment shall be made upon submitted rates for providing all services necessary to execute, complete and deliver the required services in accordance with RFP 2020-005.

2. Costs:

A. 12.5' Circumference Tubing: Cost of routine installation including all labor, materials and equipment of the first layer consisting of 404 woven 12.5' GEO-textile tubing material for canal bank restoration is \$25.00 per linear foot. Cost of routine installation including all labor, materials and equipment of the second layer consisting of 6oz. non-woven 12.5' GEO-textile tubing material for canal bank restoration is \$23.00 per linear foot. Cost of routine installation including all labor, materials and equipment of the third and all higher layers consisting of 6oz. non-

woven 12.5' GEO-textile tubing material for canal bank restoration is \$21.00 per linear foot.

B. 7.5' Circumference Tubing: Cost of routine installation including all labor, materials and equipment of the second and all higher layers* consisting of 6oz non-woven GEO-textile tubing material for canal bank restoration is \$19.00 per linear foot. (*Note: 7.5' circumference tubes are only used as second and third layer applications. As a 2nd layer it will be installed on a 12.5' circumference tube and as a 3rd layer it will be installed on two 12.5' circumference tubes as priced above under Item A.)

C. Sodding of Completed GEO-Tube Construction*: Cost of sod (supplied, delivered and installed) is \$.48 per square foot. An additional \$.10 per square foot shall apply to sod installation at limited access work sites when wheel barrow delivery of the sod to the installation area is required. Sod installation requiring stapling to secure the first layer of sod to the tubing shall be provided at a cost of \$.15 per staple. (*Note: CITY reserves the right to contract directly with a sod provider for the installation of sod. The sod installation prices noted above shall be utilized only when the CITY elects to use the tubing CONTRACTOR for sod installation.)

ARTICLE 5

PAYMENT

1. The CONTRACTOR shall requisition payment for work completed.

Upon mobilization, CONTRACTOR shall submit to CITY an invoice for 50% of the estimated total cost for the work. CITY shall review the invoice, and upon approval by user department, process the invoice for payment to cover the cost of materials or for work performed and completed. Work shall be requisitioned on an "as needed basis". CONTRACTOR shall invoice for work completed and payment shall be made upon acceptance by the CITY. Final payment shall be made upon full completion of work as determined by the CITY together with properly executed releases of liens by all subcontractors, suppliers and materialmen as may be required by CITY. CITY shall make payment to CONTRACTOR within 45 calendar days after its approval.

2. CITY may withhold in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:
 - a. Defective work not remedied.

- b. Claims filed or unreasonable evidence indicating the probable filing of claims by other parties against the CONTRACTOR.
- c. Failure of the CONTRACTOR to make payment to subcontractors or suppliers for materials or labor.
- d. Damage to the CITY or to another contractor not remedied.
- e. Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract time.
- f. Reasonable evidence that the work will not be completed within the Contract Time.
- g. Persistent failure to carry out the work in accordance with the Contract Documents.

When the above grounds are removed or resolved or the CONTRACTOR provides a surety bond or a consent of surety satisfactory to the CITY which will protect the CITY in the amount withheld, payment may be made in whole or in part.

ARTICLE 6

FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the CITY to the CONTRACTOR when all outstanding work has been completed and all controversy regarding the preceding has been settled to the CITY'S satisfaction.

ARTICLE 7

MISCELLANEOUS PROVISIONS

1. Terms used in this Agreement which are defined in the Special and General Conditions of the Contract shall have the meanings designated in those Conditions.
2. This agreement shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida. Any claim, objection, or dispute arising out of this Agreement shall be litigated only in the Seventeenth Judicial Circuit in and for Broward County, Florida.
3. No waiver of any provision, covenant, or condition within this agreement or of the

breach of any provision, covenant, or condition within this agreement shall be taken to constitute a waiver of any subsequent breach of such provision, covenant, or condition.

4. CONTRACTOR shall not assign or transfer the Contract or its rights, title or interests therein without CITY'S prior written approval. The obligations undertaken by CONTRACTOR pursuant to the Contract shall not be delegated or assigned to any other person or firm unless CITY shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of Contract by CONTRACTOR and the CITY may, at its discretion, cancel the Contract and all rights, title and interest of CONTRACTOR shall thereupon cease and terminate.
5. This agreement, and attachments, represents the entire understanding of the parties as to the matters contained herein. No prior oral or written understanding shall be of any force and effect with respect to those matters covered hereunder. This agreement may only be modified by amendment in writing signed by each party.
6. **THE PARTIES TO THIS AGREEMENT HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, PROCEEDING, LAWSUIT OR COUNTERCLAIM BASED UPON THE CONTRACT, ARISING OUT OF, UNDER, OR IN CONNECTION WITH THE MATTERS TO BE ACCOMPLISHED IN THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR THE ACTIONS OR INACTIONS OF ANY PARTY.**
7. **PUBLIC RECORDS:** The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and specifically agrees to:
 - A. Keep and maintain public records required by the City of Margate to perform the service.
 - B. Upon request from the City of Margate's custodian of public records, provide the City of Margate with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
 - C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if

the Contractor does not transfer the records to the City of Margate.

- D. Upon completion of the Agreement, transfer, at no cost, to the City of Margate all public records in possession of the Contractor or keep and maintain public records required by the City of Margate to perform the service. If the Contractor transfers all public records to the City of Margate upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City of Margate, upon request from the City of Margate's custodian of public records, in a format that is compatible with the information technology systems of the City of Margate.

- E. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone number:

(954) 954-972-6454

E-mail address:

recordsmanagement@margatefl.com

Mailing address:

5790 Margate Boulevard

Margate, FL 33063

8. **SCRUTINIZED COMPANIES:** In accordance with s. 287.135, Florida Statutes, as amended, a company is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services if:

- a. Any amount of, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, Florida Statutes, or is engaged in a boycott of Israel; or
 - b. One million dollars or more, if, at the time of bidding on, submitting a proposal for, or entering into or renewing such contract, the company:
 - i. Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.73, Florida Statutes; or
 - ii. Is engaged in business operations in Syria.
 - c. By submitting a bid, proposal or response, the company, principals or owners certify that they are not listed on the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or is engaged in business operations in Syria.
 - d. The City shall reserve the right to terminate any contract resulting from this solicitation if the awarded Contractor is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.
9. **INDEMNIFICATION:** Contractor will indemnify and defend the City's officers, directors, and employees ("Agency Indemnitees") from and against all claims, demands, losses, liabilities, reasonable costs and expenses arising out of a claim by a third party against an Agency Indemnitee resulting from any negligent act, error or omissions, or willful misconduct of the Contractor under or related to this Agreement, except in the case of negligent acts, omissions, or willful misconduct of the City or claims that fall under Workers Compensation Coverage.
10. **TERMINATION:** (a) Termination for Cause - In the event the Successful Offeror (Contractor) shall default in any of the terms, obligations, restrictions or conditions in the contract documents, the City shall give the Contractor written notice by certified mail of the default and that such default shall be corrected or actions taken to correct such default shall be commenced within three (3) calendar days thereof. In the event the Contractor has failed to correct the conditions(s) of the default or the default is not remedied to the satisfaction and approval of the City, the City shall have all legal remedies available to it, including, but not limited to termination of the Contract in which case the Contractor shall be liable for any and all damages permitted by law arising from the default and breach of the contract. (b) Termination for Convenience - Upon

thirty (30) calendar days written notice to the Contractor, the City may without cause and without prejudice to any other right or remedy, terminate the contract for the City's convenience whenever the City determines that such termination is in the best interest of the City. Where the contract is terminated for the convenience of the City, the notice of termination to the Contractor must state that the contract is being terminated for the convenience of the City under the termination clause and the extent of termination. The Contractor shall discontinue all work on the appointed last day of service. (c) Cancellation for Unappropriated Funds - The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period, regardless of contract term, is subject to appropriation of funds, unless otherwise authorized by law.

11. Notices:

All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

The business address of the CONTRACTOR is:

Mr. Marthinus H. Le Roux
President
Erosion Barrier Installations, Corp.
8878 SW 59th Street
Cooper City, FL 33328

The business address of the CITY is:

City Manager
City of Margate
5790 Margate Blvd.
Margate, Florida 33063

All "Notice to Owner / Notice of Contractor" forms are to be sent to:

Mr. Mark Collins, Public Works Director
102 Rock Island Road
Margate, FL 33063
954-972-8126

IN WITNESSETH WHEREOF, CITY and CONTRACTOR have signed this Contract in duplicate. One counterpart each has been delivered to CITY and CONTRACTOR. All portions of the Contract Documents have been signed or identified by CITY and CONTRACTOR.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY OF MARGATE

Tommy Ruzzano, Mayor

Cale Curtis, City Manager

____ day of _____, 20____

____ day of _____, 20____

ATTEST:

APPROVED AS TO FORM:

Joseph J. Kavanagh, City Clerk

Janette M. Smith, City Attorney

____ day of _____, 20____

____ day of _____, 20____

FOR CONTRACTOR

FOR CORPORATION:



President

11th day of MARCH, 2020

(CORPORATE SEAL)



Secretary

11th day of March, 2020

**AGREEMENT BETWEEN CITY OF MARGATE AND CONTRACTOR FOR WORK TO BE
PERFORMED AS PER RFP 2020-005 – SUPPLY AND INSTALLATION OF CANAL
BANK EROSION BANK TUBING**