

**RESOLUTION NUMBER 25-199**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, AWARDING RFP-25-03-EN TO PERSONS SERVICES CORP, AS THE MOST RESPONSIVE AND RESPONSIBLE BIDDER TO COMPLETE THE FILL AND GRADING OF BAY OAKS RECREATIONAL CAMPUS PROJECT AS RECOMENDED BY THE SELECTION ADVISORY COMMITTEE; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND PREPARE AN AGREEMENT FOR THE RECOMMENDED SERVICES IN AN AMOUNT NOT TO EXCEED \$1,689,381.63 SUBJECT TO LEGAL REVIEW; AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT; PROVIDING FOR SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach (“Town”) empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, the Town of Fort Myers Beach is seeking to find a contractor to bring the existing recreational park area to base flood and prepped for further uses on the Bay Oaks Property by means of (mixed concrete, sand, dirt and stone); and

**WHEREAS**, the Town of Fort Myers Beach solicited an RFP in April 2025 to receive proposals for the Fill and Grading of Bay Oaks; and

**WHEREAS**, the Town of Fort Myers Beach received grant funding to assist with the funding of this project and requires work to be done by the current deadline of August 2025; and

**WHEREAS**, the Town received a single proposal from Persons Services Corp., and the Selection Advisory Committee met on May 15, 2025, and unanimously recommended to the Town Manager the award of an agreement to be executed to the most responsive and responsible bidder to complete the work; and

**WHEREAS**, pursuant to a competitive procurement process in compliance with State Law and Town Code – RFP-25-03-EN “Fill and Grading of Bay Oaks Recreational Campus,” the Town awards the bid to Persons Services Corp; and

**WHEREAS**, Persons Services Corp, has agreed to execute an agreement for the Fill and Grading of Bay Oaks Recreational Campus Project containing similar terms as included in the bid; and

WHEREAS, it is in the best interest of the Town to award the project to Persons Service Corp.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, AS FOLLOWS:**

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby awards the bid as provided herein with Persons Services Corp., authorizes the Town Manager to negotiate and prepare an agreement for the services included within the proposal subject to legal review, and authorize the Mayor to execute the agreement.

Section 3. This resolution shall take effect immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Mayor Allers and seconded by Council Member King and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 2nd day of June 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers  
Dan Allers, Mayor

ATTEST:

Amy Baker  
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH SOLELY:

Nancy Stuparich  
Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: Jul 31, 2025.

**INDEPENDENT CONTRACTOR'S AGREEMENT  
RFP-25-03-EN (FILL AND GRADE)**

**THIS INDEPENDENT CONTRACTOR'S AGREEMENT** (hereinafter this "Agreement") is effective the 25th day of July 2025 by and between the **TOWN OF FORT MYERS BEACH**, a Florida municipal corporation (hereinafter the "TOWN") and **PERSONS SERVICES CORP.**, an Alabama corporation authorized to do business in the State of Florida] (hereinafter "CONTRACTOR").

**WITNESSETH**

**WHEREAS**, the TOWN is a municipal corporation of the State of Florida, having a responsibility to provide certain services to benefit the citizens of the TOWN OF FORT MYERS BEACH; and

**WHEREAS**, the TOWN has the full power and authority to enter into the transactions contemplated by this Agreement; and

**WHEREAS**, CONTRACTOR is in the business of construction in the TOWN and elsewhere in the State of Florida; and

**WHEREAS**, CONTRACTOR is competent and has sufficient manpower, training, and technical expertise to perform the services contemplated by this Agreement in a timely and professional manner consistent with the standards of the industry in which CONTRACTOR operates; and

**WHEREAS**, CONTRACTOR was the successful proposer for an advertised Request for Proposals identified as RFP-25-03-EN, "FILL AND GRADING OF BAY OAKS RECREATIONAL CAMPUS," which satisfies the TOWN's Procurement Policy; and

**WHEREAS**, Section 286.101, Florida Statutes contains a list of "foreign countries of concern" including, the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such "foreign country of concern". Any entity that does business with a state agency or political subdivision must disclose certain of their dealings with those "foreign countries of concern" to the Florida Department of Financial Services; and

**WHEREAS**, CONTRACTOR agrees to provide such goods and services as more particularly described in this Agreement, as well as in any bid or proposal documents issued in connection with this project.

**NOW THEREFORE** in consideration of the premises, and in consideration of the mutual conditions, covenants, and obligations hereafter expressed, the parties agree as follows:



- 1) **Recitals.** The foregoing recitals are true and correct, constitute a material inducement to the parties to enter into this Agreement, and are hereby ratified and made a part of this Agreement.
  
- 2) **Description of Work.**
  - a) The TOWN hereby retains CONTRACTOR to furnish services as described in the Scope of Services, which is attached hereto as **Exhibit "B"** and incorporated herein by reference. Any conflict between the terms and conditions in the body of this Agreement and the terms and conditions set forth in **Exhibit "B"** will be resolved in favor of the body of this Agreement.
  - b) CONTRACTOR must provide all permits, labor, materials, equipment, and supervision necessary for the completion of the Scope of Services, unless specifically excluded.
  - c) CONTRACTOR must also comply with, and abide by, all requirements as contained in any invitation to bid (ITB), request for proposals (RFP), request for qualifications (RFQ), bid specifications, engineering plans, shop drawings, material lists, or other similar documents issued for this project by the TOWN, together with any addenda, hereinafter the "Bid Documents, as applicable." The Bid Documents, as applicable, are hereby incorporated into this Agreement by reference and are declared to be material part of this Agreement.
  
- 3) **Commencement and completion/Term.**
  - a) CONTRACTOR must commence work under this Agreement immediately upon receipt by CONTRACTOR, and must substantially complete the work not later than August 15, 2025. Time is of the essence in the performance of this Agreement.
  - b) Liquidated damages will be assessed against CONTRACTOR in the amount of \$500.00 per day, for each day after 45 days that the work contemplated by this Agreement is incomplete. The Town shall have the right to deduct all liquidated damages due from the final payment request as well as any retainage.
  
- 4) **Payment.**
  - a) The TOWN agrees to compensate CONTRACTOR, for work actually performed under this Agreement, at the rate or basis described in **Exhibit "C"**, which is attached hereto and incorporated herein by reference. CONTRACTOR must perform all work required by the Scope of Services, but in no event will CONTRACTOR be paid more than the negotiated amount of \$1,689,381.63.
  - b) Progress payments, if any, will be made as set forth in **Exhibit "C"**.
  - c) The TOWN reserves the right to ratably withhold amounts in the event of the nonperformance of all or part of CONTRACTOR's obligations. CONTRACTOR must,



without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the error or omission or negligent act of CONTRACTOR.

5) **Acceptance of work product, payment, and warranty.**

- a) **Installment Payments.** Upon receipt of a periodic work product or notice that work has progressed to a point of payment in accordance with **Exhibit "C"** attached or the Bid Documents, if any, together with an invoice sufficiently itemized to permit audit, the TOWN will diligently review those documents. When it finds the work acceptable under this Agreement, the installment payment found to be due to CONTRACTOR, will be paid to CONTRACTOR within thirty (30) days after the date of receipt of the invoice, unless another payment schedule is provided in **Exhibit "C"**.
- b) **Final Payment.** Upon receipt of written notice that the work is ready for final inspection and acceptance, the TOWN will promptly make such inspection. When it finds the work acceptable under this Agreement and the contract fully performed, it will promptly issue a final certificate stating that the work provided for in this Agreement has been completed, and acceptance by the TOWN under the terms and the conditions thereof, is recommended and the entire balance, found to be due to CONTRACTOR, will be paid to CONTRACTOR within thirty (30) days after the date of the final certificate. Before issuance of final certificate, CONTRACTOR must submit a conditional final lien release satisfactory to the TOWN that all payrolls, subcontractors, materialmen, and other similar bills and indebtedness connected with the work will be paid within 10 days of final payment as per statute 255.078.
- c) **Warranty.** CONTRACTOR warrants that the data utilized by CONTRACTOR (other than as provided by the TOWN) is from a source, and collected using methodologies, which are generally recognized in CONTRACTOR's industry or profession to be a reliable basis and foundation for CONTRACTOR's work product. CONTRACTOR must notify the TOWN in writing if it appears, in CONTRACTOR's professional judgement that the data or information provided by the TOWN for use in CONTRACTOR's work product is incomplete, defective, or unreliable.
- d) **Performance Guarantee.** CONTRACTOR guarantees to repair, replace or otherwise make good to the satisfaction of the TOWN any defect in workmanship or material appearing in the work; and further guarantees the successful performance of the work for the service intended. Neither inspection nor payment, including final payment, by the TOWN will relieve CONTRACTOR from its obligations to do and complete the work in accordance with this Agreement. If the TOWN deems it inexpedient to require CONTRACTOR to correct deficient or defective work, the TOWN will make an equitable deduction from the contract price, or, in the alternative, the TOWN may seek damages.

6) **Termination.**



- a) Termination at Will: This Agreement may be terminated by the TOWN in whole or in part at any time without cause by the TOWN giving written notice to CONTRACTOR not less than 30 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.
  - b) Termination for Cause: This Agreement may be terminated by either party for cause by the TOWN or CONTRACTOR giving written notice to the other party not less than 10 days prior to the date of termination; provided, however, that in such event, neither party will be relieved from its rights or obligations of this Agreement through the date of the actual termination. Notice must be delivered by certified mail, return receipt requested, or in person with proof of delivery.
- 7) **Project management.**
- a) The Project Managers for this project are as follows. Any subsequent changes to the Project Manager for either party may be provided by notice as described in paragraph 8 below and does not require an amendment to this Agreement.
  - b) TOWN's Project Manager is: Jeff Hauge, Community Services Director
  - c) CONTRACTOR's Project Manager is: Jason Otilige.
- 8) **Notices.** All notices to the parties under this Agreement must be in writing and sent certified mail to:
- a) To TOWN: Town of Fort Myers Beach Town Council, Attention: Contract and Procurement Specialist, 6231 Estero Blvd, FORT MYERS BEACH, Florida 33931.
  - b) To CONTRACTOR: PERSONS SERVICES CORP. Attention: SAMANTHA VINCENTY, Regional General Manager, 1835 S. Perimeter Rd, Suite 175, Fort Lauderdale, FL 33309.
- 9) **Insurance.**
- a) CONTRACTOR must maintain such insurance as will fully protect both CONTRACTOR and the TOWN from any and all claims under any Workers Compensation Act or Employers Liability Laws, and from any and all other claims of whatsoever kind or nature to the damage or property, or for personal injury, including death, made by anyone whomsoever, that may arise from operations carried on under this Agreement, either by CONTRACTOR, any subcontractor, or by anyone directly or indirectly engaged or employed by either of them.
  - b) The insurance coverage required by this Agreement must not be less than the amounts described in the Bid Documents. If the Bid Documents do not state an insurance



requirement or the amount of insurance, then the amount of insurance required by this Agreement must not be less than:

- i) Workers' Compensation (unless exempt) with Employers' Liability with a limit of \$500,000.00 each accident, \$500,000.00 each employee, \$500,000.00 policy limit for disease;
  - ii) Commercial General Liability (CGL) insurance with a limit of not less than \$1,000,000.00 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location and project in the amount of \$1,000,000.00. Products and completed operations aggregate shall be \$1,000,000.00. CGL insurance shall be written on an occurrence form and include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damage and property damage resulting from explosion, collapse or underground (x, c, u) exposures, personal injury, and advertising injury. Damage to rented premises shall be included at \$100,000.00.
  - iii) Commercial Automobile Liability Insurance with a limit of not less than \$1,000,000.00 each accident for bodily injury and property damage liability. Such insurance shall cover liability arising out of any auto (including owned, hired and non-owned autos) and such policy shall be endorsed to provide contractual liability coverage; and
  - iv) Fire damage liability shall be included at \$500,000.00.
- c) CONTRACTOR must furnish the TOWN with Certificates of Insurance, which are to be signed by a person authorized by that insurer to bind coverage on its behalf. The TOWN is to be specifically included as an additional insured and loss payee on all policies except Workers' Compensation. In the event the insurance coverage expires prior to the completion of the project, a renewal certificate must be issued 30 days prior to the expiration date. The policy must provide a 30 day notification clause in the event of cancellation or modification to the policy. All certificates of insurance must be on file with and approved by the TOWN before commencement of any work activities.
- d) The insurance coverages procured by CONTRACTOR as required herein will be considered as primary insurance over and above any other insurance, or self-insurance, available to CONTRACTOR, and any other insurance, or self-insurance available to CONTRACTOR will be considered secondary to, or in excess of, the insurance coverage(s) procured by CONTRACTOR as required herein.
- 10) **General Provisions.** CONTRACTOR must comply with the following general provisions:
- a) **Bond.** If a surety bond has been required by the Bid Documents for CONTRACTOR's faithful performance and payment, and if at any time the surety is no longer acceptable to the TOWN, CONTRACTOR must, at its expense, within five (5) days after the receipt of notice from the TOWN to do so, furnish an additional bond or bonds in such form and with such Surety or Sureties as are satisfactory to the TOWN. The TOWN will not make any further payment to CONTRACTOR, nor will any further payment be



deemed to be due to CONTRACTOR, until such new or additional security for the faithful performance of the work is furnished in a manner and form satisfactory to the TOWN.

- b) **Compliance with Laws.** In providing the Scope of Services, CONTRACTOR must comply with all federal, state, and local laws, statutes, ordinances, rules, and regulations pertaining to or regulating the provision of such services, including those now in effect and hereafter adopted.
  
- c) **Personal Nature of Agreement; Assignment.**
  - i) The parties acknowledge that the TOWN places great reliance and emphasis upon the knowledge, expertise, training, and personal abilities of CONTRACTOR. Accordingly, this Agreement is personal and CONTRACTOR is prohibited from assigning or delegating any rights or duties hereunder without the specific written consent of the TOWN.
  - ii) If CONTRACTOR requires the services of any subcontractor or professional associate in connection with the work to be performed under this Agreement, CONTRACTOR must obtain the written approval of the TOWN Project Manager prior to engaging such subcontractor or professional associate. CONTRACTOR will remain fully responsible for the services of any subcontractors or professional associates.
  - iii) Proposed subcontractor is listed and included in the RFP submission.
  
- d) **Discrimination.**
  - i) CONTRACTOR shall not discriminate against any employee employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. CONTRACTOR shall not exclude any person, on the grounds of age, ethnicity, race, religious belief, disability, national origin, or sex, from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under, this Agreement.
  - ii) CONTRACTOR shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management.
  
- e) **Independent Contractor.**
  - i) CONTRACTOR is, and will be deemed to be, an independent contractor and not a servant, employee, joint adventurer, or partner of the TOWN. None of CONTRACTOR's agents, employees, or servants are, or will be deemed to be, the agent, employee, or servant of the TOWN. None of the benefits, if any, provided by the TOWN to its employees, including but not limited to, compensation insurance and unemployment insurance, are available from the TOWN to the employees, agents, or servants of CONTRACTOR. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, and subcontractors during the



performance of this Agreement. Although CONTRACTOR is an independent contractor, the work contemplated herein must meet the approval of the TOWN and is subject to the TOWN's general right of inspection to secure the satisfactory completion thereof. CONTRACTOR must comply with all Federal, State and municipal laws, rules and regulations that are now or may in the future become applicable to CONTRACTOR, or to CONTRACTOR's business, equipment, or personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations. The TOWN will not be held responsible for the collection of or the payment of taxes or contributions of any nature on behalf of CONTRACTOR.

- ii) CONTRACTOR will bear all losses resulting to it on account of the amount or character of the work, or because of bad weather, or because of errors or omissions in its contract price.
- iii) CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR and any subcontractors during the Term of this Agreement.

**f) Indemnification.**

- i) CONTRACTOR must indemnify and hold the TOWN harmless against and from any and all claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses, including attorney's fees and court costs, incurred by the TOWN, or its agents, officers, or employees, arising directly or indirectly from CONTRACTOR's performance under this Agreement or by any person on CONTRACTOR's behalf, including but not limited to those claims, losses, penalties, interest, demands, judgments, costs, damages, or expenses arising out of any accident, casualty, or other occurrence causing injury to any person or property. This includes persons employed or utilized by CONTRACTOR (including CONTRACTOR's agents, employees, and subcontractors). CONTRACTOR must further indemnify the TOWN against any claim that any product purchased or licensed by the TOWN from CONTRACTOR under this Agreement infringes a United States patent, trademark, or copyright. CONTRACTOR acknowledges that CONTRACTOR has received consideration for this indemnification, and any other indemnification of the TOWN by CONTRACTOR provided for within the Bid Documents, the sufficiency of such consideration being acknowledged by CONTRACTOR, by CONTRACTOR's execution of this Agreement. CONTRACTOR's obligation will not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance, whether such insurance is in connection with this Agreement or otherwise. Such indemnification is in addition to any and all other legal remedies available to the TOWN and not considered to be the TOWN's exclusive remedy.
- ii) In the event that any claim in writing is asserted by a third party which may entitle the TOWN to indemnification, the TOWN must give notice thereof to CONTRACTOR, which notice must be accompanied by a copy of statement of the claim. Following the notice, CONTRACTOR has the right, but not the



obligation, to participate at its sole expense, in the defense, compromise or settlement of such claim with counsel of its choice. If CONTRACTOR does not timely defend, contest, or otherwise protect against any suit, action or other proceeding arising from such claim, or in the event the TOWN decides to participate in the proceeding or defense, the TOWN will have the right to defend, contest, or otherwise protect itself against same and be reimbursed for expenses and reasonable attorney's fees and, upon not less than ten (10) days notice to CONTRACTOR, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the parties hereto must cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.

iii) The indemnification provisions of this paragraph will survive the termination of this Agreement.

g) **Sovereign Immunity.** Nothing in this Agreement extends, or will be construed to extend, the TOWN's liability beyond that provided in section 768.28, Florida Statutes. Nothing in this Agreement is a consent, or will be construed as consent, by the TOWN to be sued by third parties in any matter arising out of this Agreement.

h) **Public Records.**

i) CONTRACTOR is a "Contractor" as defined by Section 119.0701(1)(a), Florida Statutes, and must comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

- (1) Keep and maintain public records required by the TOWN to perform the service.
- (2) Upon request from the TOWN's custodian of public records, provide the TOWN 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 Chapter 119 or as otherwise provided by law.
- (3) 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 this Agreement term and following completion of the Agreement if CONTRACTOR does not transfer the records to the TOWN.
- (4) Upon completion of this Agreement, transfer, at no cost, to the TOWN all public records in possession of CONTRACTOR or keep and maintain public records required by the TOWN to perform the service. If CONTRACTOR transfers all public records to the TOWN upon completion of this Agreement, CONTRACTOR must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Agreement, CONTRACTOR must meet all applicable requirements for retaining public records. All records stored electronically must be provided to the TOWN, upon request from the TOWN's custodian of public records, in



a format that is compatible with the information technology systems of the TOWN.

- ii) "Public records" is defined in Section 119.011(12), Florida Statutes, as may, from time to time, be amended.
- iii) If CONTRACTOR asserts any exemptions to the requirements of Chapter 119 and related law, CONTRACTOR will have the burden of establishing such exemption, by way of injunctive or other relief as provided by law.
- iv) CONTRACTOR consents to the TOWN's enforcement of CONTRACTOR's Chapter 119 requirements, by all legal means, including, but not limited to, a mandatory injunction, whereupon CONTRACTOR must pay all court costs and reasonable attorney's fees incurred by TOWN.
- v) CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by CONTRACTOR will be grounds for immediate unilateral cancellation of this Agreement by the TOWN.

vi) **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, TOWN CLERK, AT (239) 765-0202, FMBPUBLICRECORDS@FMB.GOV; MAILING ADDRESS: 6231 ESTERO BLVD, FORT MYERS BEACH, FLORIDA 33931.**

- i) **Public Records Compliance Indemnification.** Contractor agrees to indemnify and hold the County harmless against any and all claims, damage awards, and causes of action arising from the contractor's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Contractor in Lee County Circuit Court on an expedited basis to enforce the requirements of this section.
- j) **Non-Appropriation.** Town's performance and obligation to pay under this Agreement is contingent upon an appropriation during the Town's annual budget approval process. If funds are not appropriated for a fiscal year, then the Contractor shall be notified as soon as is practical by memorandum from the Town Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year-end shall be without penalty or expense to the Town subject to the Town paying all invoices for services rendered during the period the Agreement was funded by appropriations.



- k) **Federal or State Funding.** If any portion of the funding for this Agreement is derived from the State of Florida, or any department of the State of Florida, or from federal funding through the State of Florida, the provisions of this sub-paragraph shall apply, provisions elsewhere in this Agreement to the contrary notwithstanding. CONTRACTOR shall make inquiry from the TOWN's Project Manager to determine whether Federal or State funding is applicable to this Agreement.
- i) **E-Verify.** CONTRACTOR must utilize, and must expressly require all subcontractors to utilize, the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by CONTRACTOR during the Term of this Agreement.
  - ii) **Agency.** CONTRACTOR agrees and acknowledges that it, its employees, and its subcontractors are not agents or employees of the Federal Government, of the State of Florida, or of any department of the Federal Government or the State of Florida.
  - iii) **Indemnification.** To the fullest extent permitted by law, CONTRACTOR shall indemnify and hold harmless the TOWN, the Federal Government, the State of Florida, any department of the Federal Government or the State of Florida, and all officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the TOWN's sovereign immunity.
  - iv) **Workers' Compensation Insurance.** CONTRACTOR must provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, CONTRACTOR must ensure that the subcontractor(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), CONTRACTOR must ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. CONTRACTOR must ensure that any equipment rental agreements that include operators or other personnel who are employees of independent Contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
  - v) **Liability Insurance.** Contractor shall carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. CONTRACTOR shall cause the State of Florida to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the State of Florida as an Additional Insured shall be primary as to



any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Contract, and may not be shared with or diminished by claims unrelated to this Agreement. The policy/ies and coverage described herein may be subject to a deductible. CONTRACTOR shall pay all deductibles as required by the policy. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention. At all renewal periods which occur prior to final acceptance of the work, the TOWN and the State of Florida shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The TOWN and the State of Florida shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The TOWN's or the State of Florida's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the TOWN or the State of Florida may have.

- vi) **Inspections.** CONTRACTOR shall permit, and require its subcontractors to permit, the TOWN's and the State of Florida's authorized representatives to inspect all work, materials, payrolls, and records, to audit the books, records, and accounts pertaining to the financing and development of the Services described herein and in the bid documents.
- vii) **Auditor General Cooperation.** CONTRACTOR shall comply with §20.055 (5), Florida Statutes, and shall incorporate in all subcontracts the obligation to comply with §20.055 (5), Florida Statutes.
- l) **FDEP Grant Requirements.** This Project is being funded by the State of Florida Department of Environmental Protection ("FDEP") through FDEP Standard Grant Agreement No. LW738 ("FDEP Grant Agreement") with the TOWN, which requires that certain terms be incorporated into agreements funded thereby. This Agreement is subject to, and CONTRACTOR shall comply with, the provisions and terms set forth in **Exhibit A.1** ("Contract Provisions for FDEP-Funded Agreements") and **Exhibit A.2 – Attachment 8** ("Contract Provisions for DOI-Funded Agreements") attached hereto and incorporated herein by reference.
- m) **Compliance/Consistency with Scrutinized Companies Provisions of Florida Statutes.** Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at



the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria. CONTRACTOR hereby certifies that CONTRACTOR is not listed on any of the following: (i) the Scrutinized Companies that Boycott Israel List, (ii) Scrutinized Companies with Activities in Sudan List, or (iii) the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. CONTRACTOR further hereby certifies that CONTRACTOR is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria. CONTRACTOR understands that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject CONTRACTOR to civil penalties, attorney's fees, and/or costs. CONTRACTOR further understands that any contract with TOWN for goods or services of any amount may be terminated at the option of TOWN if CONTRACTOR (i) is found to have submitted a false certification, (ii) has been placed on the Scrutinized Companies that Boycott Israel List, or (iii) is engaged in a boycott of Israel. And, in addition to the foregoing, if the amount of the contract is one million dollars (\$1,000,000) or more, the contract may be terminated at the option of TOWN if the company is found to have submitted a false certification, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria.

- n) **Disclosure Requirements for "Foreign Countries of Concern"**. CONTRACTOR shall comply with the disclosure requirements set forth in section 286.101 (3) (a), F.S., which requires "Any entity that applies to a state agency or political subdivision for a grant or proposes having a contract value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift received from a "foreign country of concern" if such interest, contract, grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract, grant or gift was received or in force at any time during the previous five (5) years. Such disclosure shall contain the name and mailing address of the disclosing entity, the amount of the gift or the value of the interest disclosed, the applicable "foreign country of concern" and, if applicable the date of termination of the contract or interest, the date of receipt of the grant or gift and the name of the agent or controlled entity that is the source or interest holder. Within one (1) year before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to the Department of Financial Services". Pursuant to section 268.101(7), F.S.: "In addition to any fine assessed under [section 286.101(7)(a), F.S.], a final order determining a third or subsequent violation by an entity other than a state agency or political subdivision shall automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause."



- o) **Public Entities Crime or Convicted Vendor List.** Contractor agrees and assumes a continuous duty to disclose to the Town if the Contractor or any of its affiliates as defined by Section 287.133(1)(a), Florida Statutes are placed on the Convicted Vendor List or the Antitrust Violator Vendor List maintained by the Florida Department of Management Services.
  - p) **Data Management; Notice of Breach.** Contractor shall cooperate with the Town and provide timely incident reporting, response activities/fact gathering, public and agency notification, severity level assessment, after-action reports, etc., which the Town must report in accordance with Sections 282.3185(5) & (6), Florida Statutes in the event of a data breach.
  - q) **Environmental and Social Government and Corporate Activism.** The Town has not given preference or requested documentation from the Contractor based on Contractor's social, political or ideological interest. Contractor agrees to similarly not request documentation or give preference to any subcontractor based on the subcontractor's social, political or ideological interests.
  - r) **No Coercion for Labor or Services.** The Contractor swears under penalty of perjury that the Contractor does not use coercion for labor or services as defined as follows:
    - i) "Coercion" means:
      - (1) Using or threatening to use physical force against any person;
      - (2) Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
      - (3) Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
      - (4) Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
      - (5) Causing or threatening to cause financial harm to any person;
      - (6) Enticing or luring any person by fraud or deceit; or
      - (7) Providing a controlled substance as outlined in Schedule I or Schedule II of Sec. 893.03, Fla. Stat. to any person for the purpose of exploitation of that person.
- 11) **Miscellaneous Provisions.** The following miscellaneous provisions apply to this Agreement:
- a) **Binding Nature of Agreement.** This Agreement is binding upon the successors and assigns of the parties hereto.
  - b) **Entire Agreement.** This Agreement states the entire understanding between the parties and supersedes any written or oral representations, statements, negotiations, or agreements to the contrary. CONTRACTOR recognizes that any representations, statements, or negotiations made by the TOWN staff do not suffice to legally bind the



TOWN in a contractual relationship unless they have been reduced to writing, authorized, and signed by the authorized TOWN representatives.

- c) **Amendment.** No modification, amendment, or alteration in the terms or conditions of this Agreement will be effective unless contained in a written document executed with the same formality as this Agreement.
- d) **Severability.** If any term or provision of this Agreement is held, to any extent, invalid or unenforceable, as against any person, entity, or circumstance during the Term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity will not affect any other term or provision of this Agreement, to the extent that the Agreement will remain operable, enforceable, and in full force and effect to the extent permitted by law.
- e) **Construction.** If any provision of this Agreement becomes subject to judicial interpretation, the court interpreting or considering such provision should not apply the presumption or rule of construction that the terms of this Agreement be more strictly construed against the party which itself or through its counsel or other agent prepared it. All parties hereto have participated in the preparation of the final form of this Agreement through review by their respective counsel, if any, or the negotiation of specific language, or both, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.
- f) **Headings.** All headings in this Agreement are for convenience only and are not to be used in any judicial construction or interpretation of this Agreement or any paragraph.
- g) **Waiver.** The indulgence of either party with regard to any breach or failure to perform any provision of this Agreement does not constitute a waiver of the provision or any portion of this Agreement, either at the time the breach or failure occurs or at any time throughout the term of this Agreement. The review of, approval of, or payment for any of CONTRACTOR's work product, services, or materials does not operate as a waiver, and should not be construed as a waiver, of any of the TOWN's rights under this Agreement, or of any cause of action the TOWN may have arising out of the performance of this Agreement.
- h) **Force Majeure.** Notwithstanding any provisions of this Agreement to the contrary, the parties will not be held liable if failure or delay in the performance of this Agreement arises from fires, floods, strikes, embargos, acts of the public enemy, unusually severe weather, out break of war, restraint of government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties. This provision does not apply if the "Scope of Services" of this Agreement specifies that performance by CONTRACTOR is specifically required during the occurrence of any of the events herein mentioned.



- i) **Law; Venue.** This Agreement is being executed in Lee County, Florida and is governed in accordance with the laws of the State of Florida. Venue of any action hereunder will be in Lee County, Florida.

12) **Special Provisions.**

- a. This Agreement is a non-exclusive contract; the TOWN is not prohibited, or deemed to be prohibited, from bidding similar services either as an independent job or a component of a larger project.

**IN WITNESS WHEREOF**, the parties hereto have signed and sealed this Agreement effective the date first written above.

Under penalties of perjury, and pursuant to Sec. 92.525, Fla. Stat., CONTRACTOR declares that CONTRACTOR has read the foregoing Section 10(r) above and that the facts stated in it are true.

**TOWN OF FORT MYERS BEACH**, a Florida municipal corporation

*Dan Allers*  
Dan Allers (Jul 30, 2025 16:03:56 EDT)  
**DAN ALLERS**  
MAYOR

**ATTEST:**

(Seal)

*Amy Baker*  
Amy Baker (Jul 31, 2025 16:05:12 EDT)  
**AMY BAKER, TOWN CLERK**

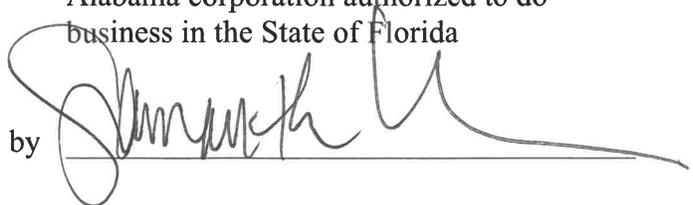
Date signed by TOWN: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY:**

*Nancy Stuparich*  
Nancy Stuparich (Jul 30, 2025 17:07:24 EDT)  
**VOSE LAW FIRM, LLP, TOWN ATTORNEY**

**PERSONS SERVICES CORP.,** an Alabama corporation authorized to do business in the State of Florida

by





SAMANTHA VINCENTY, as its  
Regional General Manager and authorized  
agent

(CORPORATE SEAL)

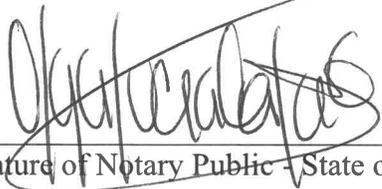


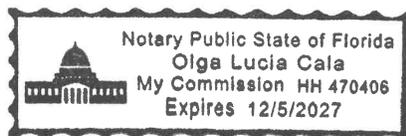
ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Secretary

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 29th day of July, 2025, by SAMANTHA Vincenty, Regional General Manager of **PERSONS SERVICES CORP.** an Alabama corporation, on behalf of the corporation, and he/she is personally known to me or has produced \_\_\_\_\_ as identification.

  
\_\_\_\_\_  
Signature of Notary Public - State of Florida



OLGA LUCIA CALA  
Printed/Typed/Stamped Name of Notary  
My commission expires: 12/5/2027

## EXHIBIT A.1

### CONTRACT PROVISIONS FOR FDEP FUNDED AGREEMENTS

The Project is being funded by the State of Florida Department of Environmental Protection ("FDEP") through FDEP Standard Grant Agreement No. LPA0307 ("FDEP Grant Agreement") with the Town of Fort Myers Beach, which requires that certain terms be incorporated into agreements funded thereby. These requirements are in addition to, and do not modify or reduce, any other requirement or obligation in the Agreement.

**1. Public Entity Crimes.** Pursuant to Section 287.133(3)(a), Florida Statutes: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. Contractor represents that in entering into the Agreement, the Contractor has not been placed on the convicted vendor list within the last 36 months. If the Contractor is placed on the convicted vendor list during the term of this Agreement, the Contractor shall immediately notify the Town and shall be cause for unilateral cancellation of the Agreement.

**2. Discriminatory Vendors.** Pursuant to Section 287.134(3)(a), Florida Statutes: An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. Contractor represents that in entering into the Agreement, the Contractor has not been placed on the discriminatory vendor list within the last 36 months. If the Contractor is placed on the discriminatory vendor list during the term of this Agreement, the Contractor shall immediately notify the Town and shall be cause for unilateral cancellation of the Agreement.

**3. Antitrust Violator Vendors.** Pursuant to Section 287.137(3)(a), Florida Statutes: A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity. Contractor represents that in entering into the Agreement, the Contractor has not been placed on the antitrust violator vendor list within the last 36 months. If the Contractor is placed on the antitrust violator vendor list during the term of this Agreement, the Contractor shall immediately notify the Town and shall be cause for unilateral cancellation of the Agreement.

**4. Compliance with FDEP Security and Safety Requirements and Processes.** Contractor and its employees, agents, and subcontractors shall comply with any security and safety requirements and processes, if provided by FDEP, for work done at the Project location.



## EXHIBIT A.1

5. **Contractual Costs.** Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapter 274, F.S., and Chapter 69I-73, F.A.C. As the grant for this project is funded with federal funds, nonconsumable and/or nonexpendable personal property or equipment costing \$10,000.00 or more purchased for the project under this Agreement is subject to the requirements set forth in 2 CFR 200. Contractor shall be responsible for maintaining appropriate property records for this Agreement and any subcontracts that include the purchase of equipment as part of the delivery of services. Contractor shall comply with this requirement and ensure that this requirement is imposed upon any subcontractors under this Agreement in writing.

6. **Statutory Notices Relating to Unauthorized Employment and Subcontracts.** FDEP considers the employment by Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of the Agreement. Contractor shall include this provision in all contracts issued as a result of the Agreement.

7. **Compliance with Federal, State and Local Laws.** Contractor and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement. All employees, subcontractors, or agents performing work under the Agreement must comply with all security and administrative requirements of FDEP and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement. Contractor shall include this provision in all contracts issued as a result of the Agreement.

8. **Record Keeping.** Contractor shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. Contractor shall grant the FDEP, the State of Florida, or their authorized representatives access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. Contractor shall similarly require each of its subcontractors to maintain and allow access to such records for audit purposes.

9. **Compliance with Section 20.055, Florida Statutes.** the CONTRACTOR understands its duty, pursuant to section 20.055(5), F.S. to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. CONTRACTOR will comply with this duty and impose this requirement, in writing, on its subcontractors.

10. **No Third-Party Rights in FDEP Grant Agreement.** Contractor is advised that the FDEP Grant Agreement does not create any third-party rights, and no third parties shall rely upon any of the rights and obligations created under the FDEP Grant Agreement.

11. **Insurance Requirements.** At all times during the Agreement the Contractor, at its sole expense, shall maintain insurance coverage of such types and with such terms and minimum limits described below. Contractor understands and agrees that funds for the Project are conditioned upon their compliance with the insurance requirements of the Agreement. Failure to maintain the minimum insurance required herein shall be grounds for immediate termination of the Agreement. Contractor must provide proof of insurance upon request. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Agreement. All

## EXHIBIT A.1

insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Contractor may provide coverage through a self-insurance program established and operating under the laws of Florida. The minimum insurance requirements applicable to this Agreement are set forth below. However, if any other provision of the Agreement or bid documents requires insurance coverage in greater amounts or of broader scope, the greater requirements shall apply.

- a. Commercial General Liability Insurance. The Contractor shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The "State of Florida Department of Environmental Protection, its employees and officers" shall be named as an additional insured on any general liability policies. The minimum limits shall be \$ 250,000 for each occurrence and \$500,000 policy aggregate.
- b. Commercial Automobile Insurance. If the Contractor's duties include the use of a commercial vehicle, the Contractor shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The "State of Florida Department of Environmental Protection, its employees and officers" shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows: 200,000/300,000 Automobile Liability for Company-Owned Vehicles, if applicable 200,000/300,000 Hired and Non-owned Automobile Liability Coverage.
- c. Workers' Compensation and Employer's Liability Coverage. The Contractor shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Agreement.
- d. Other Insurance. None.

**12. Contract Provisions for DOI-Funded Agreements.** Exhibit A.2 – Attachment 8, attached hereto, is incorporated herein in full, and Contractor shall adhere to the requirements thereof. Contractor shall provide the requirements identified in Exhibit A.2 – Attachment 8 to all lower tier subrecipients/contractors.

**13. Incorporation into Subcontracts.** Contractor shall provide its subcontractors with a copy of this Exhibit, including Exhibit A.2 – Attachment 8 attached hereto, and the Contractor's obligations hereof shall be incorporated into each of Contractor's contracts with its subcontractor as obligations of the subcontractor. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth herein.



## EXHIBIT A.2 – ATTACHMENT 8

### **ATTACHMENT 8 Contract Provisions for DOI-Funded Agreements**

The Department, as a Non-Federal Entity as defined by 2 CFR §200.69, shall comply with the following provisions, where applicable. For purposes of this Grant Agreement between the Department and the Grantee, the term "Recipient" shall mean "Grantee."

Further, the Department, as a pass-through entity, also requires the Grantee to pass on these requirements to all lower tier subrecipients, and to comply with the provisions of the award, including applicable provisions of the OMB Uniform Guidance (2 CFR Part 200), and all associated terms and conditions. Therefore, Grantees must include these requirements in all related subcontracts and/or sub-awards. Grantees can include these requirements by incorporating this Attachment in the related subcontract and/or sub-awards, however for all such subcontracts and sub-awards, the Grantee shall assume the role of the Non-Federal Entity and the subrecipients shall assume the role of the Recipient.

#### **2 CFR PART 200 APPENDIX 2 REQUIREMENTS**

##### **1. Administrative, Contractual, and Legal Remedies**

The following provision is required if the Agreement is for more than \$150,000. In addition to any of the remedies described elsewhere in the Agreement, if the Recipient materially fails to comply with the terms and conditions of this Contract, including any Federal or State statutes, rules or regulations, applicable to this Contract, the Non-Federal Entity may take one or more of the following actions.

- i. Temporarily withhold payments pending correction of the deficiency by the Recipient.
- ii. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- iii. Wholly or partly suspend or terminate this Contract.
- iv. Take other remedies that may be legally available.

The remedies identified above, do not preclude the Recipient from being subject to debarment and suspension under Presidential Executive Orders 12549 and 12689. The Non-Federal entity shall have the right to demand a refund, either in whole or part, of the funds provided to the Recipient for noncompliance with the terms of this Agreement.

##### **2. Termination for Cause and Convenience**

Termination for Cause and Convenience are addressed elsewhere in the Agreement.

##### **3. Equal Opportunity Clause**

The following provision applies if the agreement meets the definition of "federally assisted construction contract" as defined by 41 CFR Part 60-1.3:

During the performance of this Agreement, the Recipient agrees as follows:

- i. The Recipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Recipient 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:
  - a. 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 Recipient 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.
- ii. The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- iii. The Recipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired

**Attachment 8**  
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## EXHIBIT A.2 – ATTACHMENT 8

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 Recipient's legal duty to furnish information.

- iv. The Recipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Recipient's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. The Recipient 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.
- vi. The Recipient 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.
- vii. In the event of the Recipient's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Recipient 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.
- viii. The Recipient 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 Recipient will take such action with respect to any subcontractor purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

#### 4. Davis Bacon Act

If the Agreement is a prime construction contract in excess of \$2,000 awarded by the Recipient, and if required by the Federal Legislation, the Recipient must comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must 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 must pay wages not less than once a week. The Recipient must comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each Recipient or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

#### 5. Contract Work Hours and Safety Standards Act

Where applicable, if the Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, the Recipient must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Recipient must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not

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## **EXHIBIT A.2 – ATTACHMENT 8**

less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

### **6. Rights to Inventions Made Under Agreement**

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the Non-Federal Entity or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Non-Federal Entity or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

### **7. Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387)**

If the Agreement is in excess of \$150,000, the Recipient shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

### **8. Debarment and Suspension (Executive Orders 12549 and 12689)**

The Recipient certifies that it is not listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension."

### **9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**

The Recipient certifies 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. If applicable, the Recipient shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award, using form SF-LLL, available at:

[https://apply07.grants.gov/apply/forms/sample/SFLLL\\_1\\_2\\_P-V1.2.pdf](https://apply07.grants.gov/apply/forms/sample/SFLLL_1_2_P-V1.2.pdf)

### **10. Procurement of Recovered Materials**

The Recipient must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act as described in 2 CFR part 200.322.

### **11. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**

The Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems 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. See Section 889 of Public Law 115-232 (National Defense Authorization Act 2019). Also, see 2 CFR 200.216 and 200.471.

### **12. Domestic Preferences for Procurement**

The Recipients and subrecipients must to the greatest extent practical give preference to the purchase, acquisition, or use of goods, products, or materials produced in the United States in accordance with 2 CFR 200.322.

## **ADMINISTRATIVE**

### **1. General Federal Regulations**

Recipients shall comply with the regulations listed in 2 CFR 200, 48 CFR 31, and 40 U.S.C. 1101 *et sequence*

### **2. Rights to Patents and Inventions Made Under a Contract or Agreement**

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Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 U.S.C. 200 through 212.

### 3. Compliance with the Trafficking Victims Protection Act of 2000 (2 CFR Part 175)

Recipients, their employees, subrecipients under this award, and subrecipients' employees may not:

- i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- ii. Procure a commercial sex act during the period of time that the award is in effect; or
- iii. Use forced labor in the performance of the award or subawards under the award.

### 4. Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234)

Recipients must comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234), if applicable. This act requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

### 5. Water Resources Reform and Development Act (WRRDA) P.L. 113-121

Recipients must comply with the Water Resources Reform and Development Act (WRRDA) P.L. 113-121, if applicable. This act provides for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources.

### 6. Whistleblower Protection

Recipients shall comply with U.S.C. §4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection. This requirement applies to all awards issued after July 1, 2013 and effective December 14, 2016 has been permanently extended (Public Law (P.L.) 114-261).

(a) This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).

(b) Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

(c) The Recipient shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award; best efforts should be made to include this clause, including this paragraph (c) in any subawards and contracts awarded prior to the effective date of this provision.

### 7. Notification of Termination (2 CFR § 200.340)

In accordance with 2 CFR § 200.340, in the event that the Agreement is terminated prior to the end of the period of performance due to the Recipient's or subcontractor's material failure to comply with Federal statutes, regulations or the terms and conditions of this Agreement or the Federal award, the termination shall be reported to the Office of Management and Budget (OMB)-designated integrity and performance system, accessible through System for Award Management (SAM) currently the Federal Awardee Performance and Integrity Information System (FAPIS). The Non-Federal Entity will notify the Recipient of the termination and the Federal requirement to report the termination in FAPIS. See 2 CFR § 200.340 for the requirements of the notice and the Recipient's rights upon termination and following termination.

### 8. Additional Lobbying Requirements

- (a) The Recipient certifies that no funds provided under this Agreement have been used or will be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.
- (b) The Lobbying Disclosure Act of 1995, as amended (2 U.S.C. §1601 *et seq.*), prohibits any organization described in Section 501(c)(4) of the Internal Revenue Code, from receiving federal funds through an award, grant (and/or subgrant) or loan unless such organization warrants that it does not, and will not engage in lobbying activities prohibited by the Act as a special condition of such an award, grant (and/or subgrant), or loan. This restriction does not apply to loans made pursuant to approved revolving loan programs or to contracts awarded using proper procurement procedures.

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## **EXHIBIT A.2 – ATTACHMENT 8**

- (c) Pursuant to 2 CFR §200.450 and 2 CFR §200.454(e), the Recipient is hereby prohibited from using funds provided by this Agreement for membership dues to any entity or organization engaged in lobbying activities.

### **COMPLIANCE WITH ASSURANCES**

#### **9. Assurances**

Recipients shall comply with any and all applicable assurances made by the Department or the Recipient to the Federal Government during the Grant application process.

### **FEDERAL REPORTING REQUIREMENTS**

Grant Recipients awarded a new Federal grant greater than or equal to \$30,000 awarded on or after October 1, 2015, are subject to the FFATA the Federal Funding Accountability and Transparency Act ("FFATA") of 2006. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is [www.USASpending.gov](http://www.USASpending.gov). The Grantee agrees to provide the information necessary, within one (1) month of execution, for the Department to comply with this requirement.

### **DEPARTMENT OF INTERIOR-SPECIFIC**

#### **10. Department of Interior (DOI) General Terms and Conditions**

Recipients shall comply with DOI General Terms and Conditions available at [https://www.doi.gov/pam/programs/financial\\_assistance/TermsandConditions](https://www.doi.gov/pam/programs/financial_assistance/TermsandConditions), and incorporated by reference.

#### **11. DOI Regulations**

Recipients shall comply with the following regulations: 2 CFR 1400-1402, 43 CFR 9, 43 CFR 17, 43 CFR 18, 43 CFR 41, and 43 CFR 44.

#### **12. Drug-Free Workplace**

Recipients must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1401. Additionally, in accordance with these regulations, the recipients must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

#### **13. Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act**

As applicable, Recipient shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) to provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

#### **14. Deposit of Publications Produced under Grants**

Pursuant to Departmental Manual 505 DM4 (DOI) and Service Manual FW1 (USFWS), any grant or cooperative agreement that will produce a publication (other than those listed as exceptions) must provide two copies of each publication to the Department of Interior's Natural Resources Library. For a list of exceptions, transmittal requirements, and delivery information see Departmental Manual 505 DM 4, Deposit of Publications Produced under Grants at: <http://elips.doi.gov/ELIPS/DocView.aspx?id=1671>.

### **UNITED STATES FISH & WILDLIFE SERVICE-SPECIFIC**

#### **15. USFWS Financial Assistance Award Terms and Conditions**

Recipients shall comply with the USFWS Financial Assistance Award Terms and Conditions applicable to the specific Federal Award funding source, available at <https://www.fws.gov/grants/atc.html>, and incorporated by reference.

### **NATIONAL PARKS SERVICE LAND AND WATER CONSERVATION FUND STATE ASSISTANCE PROGRAM-SPECIFIC**

#### **16. LWCF Federal Financial Assistance Manual**

As applicable, Recipients shall comply with the LWCF Federal Financial Assistance Manual Effective March 11, 2021, or later, available at <https://www.nps.gov/subjects/lwcf/lwcf-manual.htm>, and incorporated by reference.

#### **17. Historic Preservation**

As applicable, Recipients shall comply with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), E.O. 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

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**EXHIBIT A.2 – ATTACHMENT 8**

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## EXHIBIT B – SCOPE OF WORK

### PART II– SCOPE OF SERVICES AND WORK

#### A OBJECTIVE

The Town of Fort Myers Beach is seeking to have the area deemed Bay Oaks Recreational Campus brought to base flood and prepped for future work.

#### B. GENERAL INFORMATION

The Town of Fort Myers Beach intends to build a multi-use field as well as six pickle ball courts on the Bay Oaks Recreational Campus but first, the existing property needs to be brought to base flood elevation. This process will require fill (mixed concrete, sand, dirt and stone) and finished grading to comply with the next phase of the Bay Oaks Recreational Park.

#### C. SCOPE OF WORK

The Town of Fort Myers Beach seeks to contract with a qualified Contractor for the construction of improvements to the Bay Oaks Recreational Campus located at 2731 Oak Street in Fort Myers Beach, Florida including all tools, materials, labor, supervision, and equipment for the project. This site development project encompasses various tasks, such as demolition, grading, and bringing the park area to base flood. The scope is further defined and detailed within the Plans, Technical Specifications and General Conditions associated with this project. The contractor is responsible for reviewing all documentation associated with this project and shall be responsible for notifying the Town of any conflicts or deficiencies during review which would affect the Contractor's final project costs.

##### 1. Site Work Includes

- **Clearing and Grubbing:**  
Remove all vegetation, roots, debris, and other organic materials from designated work areas.
- **Demolition (if applicable):**  
Removal and proper disposal of any existing pavements, structures, or underground utilities as required.
- **Earthwork:**
  - Excavation and filling as necessary to establish subgrade elevations.
  - Removal and off-site disposal of excess or unsuitable material.
  - Import, placement, and compaction of approved fill materials as needed.
- **Trenching and Backfilling:**  
Coordination and trenching for underground utilities (water, sewer, electrical, storm drainage). Proper backfill and compaction in layers per specifications.
- **Erosion and Sediment Control:**  
Install and maintain silt fences, sediment basins, and other BMPs (Best Management Practices) per local stormwater regulations.



## EXHIBIT B – SCOPE OF WORK

### 2. Finished Grading Includes

- **Rough Grading:**  
Rough contouring of the site to prepare for final grading, ensuring proper drainage away from structures.
- **Final Grading:**  
Precise grading to meet final elevations and slopes indicated on the grading plan.  
Ensure all surface water is directed to proper drainage structures and away from buildings.
- **Compaction Testing:**  
Provide necessary field testing to confirm compaction per geotechnical and civil engineering specifications.
- **Preparation for Surface Materials:**  
Preparation of subgrade for paving, concrete, landscaping, or turf installation as applicable.

### 3. Deliverables and Inspections

- As-built grading plan (if required).
- Compaction test reports.
- Final inspection with representative.
- Site cleaned and free of debris upon completion.

### 4. Exclusions

- Landscaping and irrigation installation (unless otherwise noted).
- Asphalt or concrete paving.
- Off-site work or work outside property boundaries unless specified.

### Responsibility of Contractor.

- a) The CONTRACTOR shall be responsible for the condition of the Work until its release from its obligations. It shall bear all losses resulting to it on account of the amount or character of the Work, the character of the ground or existing underground installation being different from what it anticipated, or on account of the weather or the elements.
- b) Information shown on the Drawings as to the location of the existing utilities has been prepared from the most reliable data available to the TOWN. This information is not guaranteed, however, and it shall be this CONTRACTOR's responsibility to determine the location, character and depth of existing utilities. Extreme caution shall be exercised to eliminate any possibility of any damage to utilities resulting from CONTRACTOR's activities. The location of any overhead utilities shall be verified and the TOWN notified of any conflict which might occur.
- c) The CONTRACTOR shall be responsible for determining which poles will need shoring during excavation and shall provide such shoring and support as is required. Caution shall be exercised by the CONTRACTOR in any grading operations, as some existing underground utilities have a minimum cover. The CONTRACTOR shall be responsible for replacing any underground facility broken or dislocated during construction for which sufficient underground information has been shown on the plans.





### Section 3 – Approach

PSC will manage and perform this project in an organized and phased approach which will involve:

**Coordinating** locates and utility shut-offs and verification

**SWPPP** installation and maintenance to ensure compliance with local stormwater regulations throughout the project.

**Removal** of all vegetation, tree stumps, roots, existing pavement and/or abandoned utility lines as identified and reviewed with the Town.

**Crushing, Excavation and Backfilling:** Crushing, 6" strip and backfill

**Rough & Fine Grading:** Perform initial contouring of the site to establish proper drainage and final grade to meeting final elevations and slopes with surface water directed away from buildings and towards drainage structures per specified elevations.

**Excess Materials:** Remove excess materials from site generated by this scope of work

**Surveying & Final As-built** to be provided with elevations as per the designed specifications for the final walk-thru.

**Site Cleanup** will be completed eliminating the construction generated debris upon completion of grading activities.

Our team will be utilizing excavators, skid steers, wheel loaders, graders, dump trucks and compactors throughout various stages of the construction. The expected overall timeline is 45 days.



EXHIBIT C – PROJECT COST

FMB:202 RFP Form C

Proposer: Persons Services Corp

**PRICE PROPOSAL FORM**

Note: Forms A, B & C are available in WORD format from the Contracts Manager upon request.

**THIS FORM MUST BE SIGNED AND SUBMITTED WITH PROPOSAL TO BE DEEMED RESPONSIVE.**

Name of Proposer: Persons Services Corp

Name of authorized representative of Proposer: Samantha Vincenty

**Project Cost**

Item	# of Units for evaluation purposes Only	Price Per Unit
General Conditions	1 LS	\$ 146,957.00
Mobilization	1 LS	\$ 55,000.00
SWPPP	1 LS	\$ 13,200.00
Crushing Operation	1 LS	\$ 360,000.00
6" Strip	1 LS	\$ 10,687.50
Fill	1 LS	\$ 425,000.00
Grading	1 LS	\$ 124,000.00
Trench backfill & Compaction	1 LS	\$ 15,000.00
Remove Excess material from site	1 LS	\$ 371,280.00
GPS, Survey & As built	1 LS	\$ 53,500.00
Bond & Fee	1 LS	\$ 114,757.13
<b>TOTAL PRICE</b>		<b>\$ 1,689,381.63</b>

Instructions. Show the project cost for each deliverable your firm will provide per the requested scope of work. Include the fees associated with each proposed deliverable. Fees should be detailed to the extent possible per deliverable. The Total Unit Price Cost shall include all fees and reimbursements for out-of-pocket costs. The Town will not reimburse for any costs not actually incurred and paid for by the Proposer and included in its proposal. Reasonable proof thereof will be required.

Payments will be made on each deliverable upon receipt and acceptance by the Town.

Additional Services: Permits if required by Town of Fort Myers Beach

Progress Payments.

- a) Not later than ninety (90) calendar days following the approval of an Application for payment, TOWN will make payment to CONTRACTOR in an amount equal to ninety-five percent (95%) of that portion of the Contract Price properly allocated to labor, materials



## EXHIBIT C – PROJECT COST

and equipment incorporated in the Work and ninety-five percent (95%) of the portion of the Contract Price properly allocated to materials and equipment suitably stored at the site or at some other location agreed upon in writing, for the period covered by the application for payment, less the aggregate of previous payments made by the TOWN.

- b) The Town shall withhold 5% of each progress payment as retainage until the project is completed.
- c) Upon final completion of the work and acceptance of the project, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract Price, less such amounts as the TOWN shall determine for all incomplete work, unsettled claims or unused units as set forth in the Agreement.

