REQUEST FOR PROPOSAL (RFP)

GMX PROCUREMENT/CONTRACT NO.:
XXX-XX-XX

GMX WORK PROGRAM NO.:
XXXXX.XXX

GMX PROJECT/SERVICE TITLE:
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

DESIGN-BUILD CONTRACT
(IN SUBSTANTIAL FORM)

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THIS CONTRACT (the "Contract" or "Agreement"), is made and entered into as of this _____ day of _____ 20____ (the "Effective Date"), by and between the ***Greater Miami Expressway Agency*** (the "Agency" or "GMX"), a body politic and corporate, a public instrumentality and an agency of the State of Florida, existing under Florida Statutes Chapter 348, Part I, as amended, acting by and through its Governing Board, and _____, (the "Design-Build Firm"), a _____ corporation located at _____ _____and duly authorized to conduct business in the State of Florida, Federal I.D. No. _____ (collectively, referred to herein as the "Parties" to this Contract).

WITNESSETH:

WHEREAS, pursuant to ***GMX Procurement/Contract No.:*** _____ GMX competitively procured for all work necessary to complete its _____ _____ (the "Work"); and

WHEREAS, GMX now desires to enter into a Contract with the Design-Build Firm.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. RECITALS

The foregoing recitals are true and correct and are incorporated herein by reference.

2. SCOPE OF WORK

GMX hereby retains the Design-Build Firm to provide the Work as described in _____ attached hereto and incorporated by reference herein.

The Design-Build Firm shall, for the consideration herein mentioned and at its cost and expense, do all the Work and furnish all the Materials, Equipment, supplies and labor necessary to perform this Contract and the associated Work, in the manner and to the full extent as set forth in the Contract Documents and under security as set forth in the attached Contract Bond, all of which are hereby adopted and made part of this Contract and incorporated by reference herein. The Contract shall be performed to the satisfaction of the duly authorized representatives of GMX, who shall have at all times full opportunity to inspect the Materials furnished and the Work performed pursuant to the Contract Documents.

3. CONTRACT AMOUNT

The Design-Build Firm agrees to perform the Work for a total not to exceed Contract Amount of _____ ***Dollars and*** _____ ***Cents ($*** _____ ***).***

The Contract Amount includes a Contingency Amount of _____ ***Dollars and Cents ($).*** Disbursement of the Contingency Amount requires written authorization from GMX through the issuance of Work Orders.

4. CONTRACT TERM

The Contract duration shall be _____ ***( ) Calendar Days*** from the date of the Notice to Proceed, as per the Contract Documents. If the Design-Build Firm fails to complete the Work in accordance with the Contract Documents, the Design-Build Firm shall pay GMX liquidated damages as detailed in the ***General Specifications for Design-Build.***

5. SMALL BUSINESS PARTICIPATION REQUIREMENT

The Design-Build Firm agrees to meet the committed _____ ***Percent (%)*** of the Price Proposal, excluding Insurance, Bond and Contingency, for the Small Business Participation Requirement for this Contract (the "SB Participation Requirement") in the manner outlined in the Small Business and/or Local Business Participation Statement(s) and Subcontractor/Subconsultant Utilization Report as approved by GMX and attached hereto and incorporated herein.

The Design-Build Firm also agrees that it is bound by the provisions in the Small Business Participation Policy, as amended, and the ***General Specifications for Design-Build*** both of which are incorporated herein and made a part hereof.

6. LOCAL BUSINESS PARTICIPATION REQUIREMENT

The Design-Build Firm agrees to meet the committed _____ ***Percent (%)*** of the Price Proposal, excluding Insurance, Bond and Contingency, for the Local Business Participation Requirement for this Contract (the "LB Participation Requirement") in the manner outlined in the Small Business and/or Local Business Participation Statement(s) and Subcontractor/Subconsultant Utilization Report as approved by GMX and attached hereto and incorporated herein.

The Design-Build Firm also agrees that it is bound by the provisions in the Local Business Participation Policy, , as amended, and the ***General Specifications for Design-Build*** both of which are incorporated herein and made a part hereof.

7. TERMS AND CONDITIONS

With respect to the Work under this Contract, the Design-Build Firm agrees it shall meet all terms and conditions included in the Contract Documents. This provision includes but is not limited to the Design-Build Firm, Subcontractor(s), Subconsultant(s) and their personnel who shall be properly prequalified, licensed, certified, and/or registered throughout the term of the Contract by the appropriate governmental authority, including certification for Small Business and/or Local Business as may be applicable to meet the requirements of the Contract Documents and to perform the Work.

8. CONTRACT BOND

With respect to the Work under this Contract, the Design-Build Firm agrees it shall satisfy all of the Contract Bond requirements, as provided in the ***General Specifications for Design-Build***, and the Contract Bond, which are attached hereto and incorporated herein.

9. INSURANCE REQUIREMENTS AND INDEMNIFICATION REQUIREMENTS

(1) **Insurance:**

The Design Build Firm shall furnish to GMX prior to the commencement of any Work under this Contract, certificate(s) of insurance as required by the Contract Documents.

Required insurance types and limits are contained in the Contract Documents and attached hereto and incorporated herein.

If insurance coverage is scheduled to expire during the Term of the Contract, the Design Build Firm shall be responsible for submitting insurance certificates to GMX before such expiration that evidence of renewal or replacement of the expiring coverage(s).

In the event that expired coverage(s) are not replaced with new or renewed coverage(s) that cover the Term of the Contract, GMX shall suspend this Contract and all Work associated with this Contract until certificates evidencing the replacement or renewed coverage(s) are received by GMX; provided however, that this suspension period shall not exceed ten (10) Calendar Days, as determined solely by GMX (the "Suspension Period"). At the end of the Suspension Period, GMX may, at its sole and absolute discretion, terminate the Contract for cause, as described in the section ***Default and Termination of Contract*** of the ***General Specifications for Design-Build.***

(2) **Indemnification**

The Design-Build Firm agrees to meet the Indemnification Requirements as detailed in the Contract Documents.

10. CONFLICTS OF INTEREST:

In addition to the Conflict of Interest provisions in the Request for Proposal (RFP), the following shall apply to the Design-Build Contract:

The Design-Build Firm warrants that, to the best of the Design-Build Firm's knowledge and belief, there are no relevant facts or circumstances which could give rise to a potential or actual conflict of interest, including but not limited to, an Organizational Conflict of Interest, as defined herein, or a Personal Conflict of Interest, as defined herein, (hereinafter collectively referred to as "Conflict of Interest", "Conflicts of Interest", or "COI"), or that the Design-Build Firm has disclosed in writing to GMX all such relevant information relating to the Design-Build Firm, its employees, its agents or any of its Subcontractors or Subconsultants.

(1) The term *Organizational Conflict of Interest* as used herein means**:**

(a) Because of other activities or relationships with other persons or consultants, the Design-Build Firm, its employees, agents, or Subcontractors, or Subconsultants, or their respective employees, is/are unable or potentially unable to render impartial assistance or advice to GMX;

(b) The Design-Build Firm's, or any of its employees, agents, Subcontractors or Subconsultants or their respective employees, objectivity in performing the Work is or might otherwise be impaired; and

(c) The Design-Build Firm, its employees, agents, Subcontractors or Subconsultants or their respective employees, has/have an unfair competitive advantage.

(2) The term *Personal Conflict of Interest* as used herein means a relationship of an employee, Subcontractor/Subconsultant, or the employees of a Subcontractor/Subconsultant with an entity that will or may impair the objectivity of the employee, Subcontractor/Subconsultant employee, or Subcontractor/Subconsultant in performing the Work.

Prior to commencement of any Work, or immediately after becoming aware of a Conflict of Interest, whichever is sooner, the Design-Build Firm agrees to notify the Executive Director either:

(1) That, to the best of its knowledge and belief, no Conflict of Interest exists, or

(2) That the Design-Build Firm shall fully disclose in writing to GMX any Conflict of Interest that the Design-Build Firm or its agents, employees, or Subcontractors or Subconsultants may have. In emergency situations, however, Work may begin, but notification of Conflicts of Interest shall be made in writing to the Executive Director within five (5) Business Days.

The Design-Build Firm agrees that if a Conflict of Interest is identified during performance, the Design-Build Firm will immediately make a full disclosure in writing to the Executive Director. This disclosure shall include a description of actions, which the Design-Build Firm has taken or proposes to take, after consultation with GMX, to avoid, mitigate, or neutralize the Conflict of Interest. The Design-Build Firm shall discontinue any relevant performance until notified by the Executive Director of any contrary action to be taken.

GMX may, at its sole and absolute discretion, withhold payments due or which may become due, suspend the Work, terminate this Contract for convenience, in whole or in part, if it deems such termination necessary to avoid a Conflict of Interest, or pursue such other remedies as may be permitted by law or this Contract. If the Design-Build Firm was aware of a Conflict of Interest prior to award or discovered a Conflict of Interest after award and did not disclose it, or misrepresented relevant information to GMX, or GMX becomes aware of a Conflict of Interest that was not disclosed by the Design-Build Firm, GMX may at its sole and absolute discretion, withhold payments due or which may become due, suspend the Work, terminate the Contract in whole or in part for default, or pursue such other remedies as may be permitted by law or this Contract.

The Design-Build Firm shall prepare and submit a Conflict of Interest (COI) Plan within twenty (20) business days after the execution of this Contract or any other time requested by GMX, which outlines the procedures in place to avoid, neutralize or mitigate Conflicts of Interest, whether actual or potential, personal or organizational, throughout the period of performance of the Contract. The Design-Build Firm's COI Plan is a document that describes the procedures the Design-Build Firm uses to identify and report COIs. Generally, a corporate COI plan will describe how a company, in its entirety, addresses conflicts, and will not be contract or program-specific.

The plan may also describe the options a company will consider proposing to avoid, neutralize, or mitigate a COI whenever a Conflict of Interest is identified. The plan shall be evaluated and approved by GMX. The plan shall address step by step the checks and balances in place to detect any potential or actual Conflicts of Interest that could result from activities covered in the Contract Documents.

The Design-Build Firm's obligations concerning providing notice of Conflict of Interest situations shall apply until the expiration date of this Contract. The Design-Build Firm agrees to:

(1) Immediately notify the Executive Director when the Design-Build Firm becomes aware of any Conflicts of Interest.

(2) Immediately notify the Executive Director prior to incurring costs for any Work when a Conflict of Interest situation may or does exist.

In the event that the Conflict of Interest does not become known until after performance of the Contract begins, the Design-Build Firm shall immediately notify the Executive Director of the Conflict of Interest. The Design-Build Firm shall cease performance of this Contract until notified by the Executive Director of the appropriate action to be taken. The Parties to this Contract agree that the Design-Build Firm will be restricted in its future contracting in the manner described below.

(1) The Design-Build Firm may be ineligible to participate in any GMX solicitations and ensuing GMX contracts, either as a prime Design-Build Firm or Subcontractor or Subconsultant.

(2) The Design-Build Firm, during the life of this Contract, shall be ineligible to enter into any contract with individuals or firms to perform work on projects related to the Work performed under this Contract unless otherwise authorized in writing by the Executive Director of GMX.

(3) The Design-Build Firm agrees in advance that if any bids/proposals are submitted for any work that would require written approval of GMX prior to entering into another contract subject to the restrictions of this section, then the bids/proposals are submitted at the Design-Build Firm's own risk. Therefore, no claim shall be made against GMX to recover bid/proposal costs as a direct cost, regardless of whether the request for authorization to enter into the other contract is denied or approved.

A review process available to the Design-Build Firm when an adverse determination is received shall consist of a request for reconsideration to the Executive Director.

Either a request for review or a request for reconsideration must be submitted within thirty (30) Calendar Days after receipt of the initial adverse determination.

The Design-Build Firm agrees to insert in each Subcontractor/Subconsultant contract hereunder, provisions which shall conform substantially to the language of the subsection entitled ***Conflicts of Interest***, including this paragraph. The Design-Build Firm may request in writing that the Executive Director exempt from this Conflicts of Interest subsection a particular Subcontractor/Subconsultant contract for certain technical or contractor work. GMX will review and evaluate each request on a case-by-case basis before approving or disapproving the request.

The Design-Build Firm agrees to insert in each Subcontractor/Subconsultant contract hereunder the requirement that any Subcontractor/Subconsultant who performs Work as a Subcontractor/Subconsultant pursuant to this Contract and wishes to submit a proposal or bid, either as a prime Design-Build Firm or as a Subcontractor/Subconsultant on any GMX procurement, shall request in writing a determination from GMX that they may participate in the specific GMX procurement prior to the proposal or bid submittal date. Such written request shall include justification as to why there is no Conflict of Interest in this situation. Failure to do so may result in the Subcontractor/Subconsultant's proposal being deemed non-responsive.

In compliance with section 348.0003, Florida Statutes, as may be amended, in addition to all other requirements of the Contract Documents related to avoidance and disclosures of Conflict of Interest, the Design-Build Firm is also required to annually submit to the Ethics Officer the ***Annual Disclosure Form***, incorporated herein by reference and found on the GMX website, and provide the following information:

(1) Any relationship that the Design-Build Firm has which affords a current or future financial benefit to the Design-Build Firm, or to a relative or business associate of the Design-Build Firm, and which a reasonable person would conclude has the potential to create a prohibited Conflict of Interest.

(2) Whether a relative of the Design-Build Firm is registered to lobby the Executive Branch of the State of Florida or the Florida Constitution Review Committee and, if so, the names of such lobbyist's clients must be provided in writing to the Ethics Officer.

(3) Any and all interests in real property held by the Design-Build Firm or the immediate family member of the Design-Build Firm, if such real property is located in or within a ½ mile radius of any actual or prospective GMX project. Prior to the execution of the Contract, the Design-Build Firm has been provided a corridor map and property ownership list reflecting the ownership for all real property within the disclosure area, or an alignment map with a list of associated owners.

The ***Annual Disclosure Form*** must be submitted by the Design-Build Firm on the Effective Date of the Contract and updated every year on the same date. It is the Design-Build Firm's responsibility to obtain from GMX an updated corridor map and a property ownership list for all real property within the disclosure area, and an alignment map with a list of associated owners in order to properly complete the ***Annual Disclosure Form.*** Failure by the Design-Build Firm to timely submit the ***Annual Disclosure Form*** is a default under the Contract and GMX, at its sole and absolute discretion, may enforce all applicable provisions under the Contract, including and up to termination of the Contract.

11. FORCE MAJEURE

The failure of either GMX or the Design-Build Firm to comply with any provision of this Contract due to an act of God, hurricane, war, fire, riot, earthquake, flood, strikes, act of public enemies, or actions of governmental authorities outside of the control of either GMX or the Design-Build Firm (excepting compliance with applicable codes and regulations) will not be considered a breach of this Contract. In this event, the time for the performance of the obligations under this Contract will be extended for a period commensurate with the delay but the Design-Build Firm will receive no additional compensation.

12. CONTRACT PERFORMANCE EVALUATION

The Design Build Firm's performance will be evaluated using the Contract Performance Evaluation procedures attached hereto.

13. ORDER OF PRECEDENCE

The order of precedence of the Contract Documents shall be applied pursuant to the ***General Specifications for Design-Build.***

14. SOVEREIGN IMMUNITY

No provision of the Contract Documents, including this Contract, shall be construed as a waiver of sovereign immunity by GMX.

15. INDEPENDENT DESIGN-BUILD FIRM

15.1 Acting as an Independent Design-Build Firm

The Design-Build Firm hereby declares that it is engaged in an independent business and agrees that, in the performance of this Contract, it shall act as an independent Design-Build Firm and not as an employee of GMX.

The Design-Build Firm has and hereby retains complete control of all the employment, compensation, and discharge of all employees of the Design-Build Firm assisting in its performance hereunder.

The Design-Build Firm shall be fully responsible for Work performed under this Contract, and all matters relating to payment of its employees including compliance with Social Security, withholding tax, workers' compensation, immigration law compliance, and all other laws and regulations governing such matters.

The Design-Build Firm shall be responsible for its own acts and those of its agents, independent contractors, and employees during the term of this Contract. Except as otherwise specifically provided, as an independent Design-Build Firm, the Design-Build Firm will be solely responsible for determining the means and methods for performing the Work described in the Contract Documents.

15.2 Full and Complete Payment

The payment made to the Design-Build Firm pursuant to the requirements of the Contract Amount, shall be the full and complete compensation to which the Design-Build Firm is entitled. GMX shall not make any federal or state tax withholdings on behalf of the Design-Build Firm. GMX shall not be required to pay any workers' compensation insurance on behalf of the Design-Build Firm.

The Design-Build Firm agrees to indemnify GMX for any tax, retirement contribution, social security, overtime payment, or workers' compensation payment which GMX may be required to make on behalf of the Design-Build Firm or any employee, or independent contractor of the Design-Build Firm for Work performed under this Contract.

15.3 No Authority to Act on GMX's Behalf

Except as GMX may specify in writing, the Design-Build Firm shall have no authority, express or implied, to act on behalf of GMX in any capacity whatsoever, as an agent or otherwise. The Design-Build Firm shall have no authority, express or implied, to bind GMX or its members, agents or employees, to any obligation whatsoever, unless expressly provided in this Contract.

16. EMERGENCY PREPAREDNESS

As may be applicable to the Work, in the event of an emergency, the Design-Build Firm shall coordinate with GMX to identify and prepare to assume the necessary responsibilities of the Emergency Preparedness and Response Plan developed for GMX.

17. CONVICTED VENDORS LIST

The Design-Build Firm represents that it is not currently on the convicted vendor list, as described in the Solicitation Documents and that it shall notify GMX immediately if, during this Contract, it is placed on said list. The Design-Build Firm agrees that placement on said list constitutes grounds for immediate termination of this Contract by GMX.

By execution of this Contract, the Design-Build Firm further certifies that the information provided in the executed Sworn Statement on Public Entity Crimes and Debarment form(s) for both the Design-Build Firm and the Subcontractors/Subconsultants is true and correct.

The Design-Build Firm agrees to indemnify GMX for any costs and expenses, including but not limited to reasonable audit costs, attorneys' fees and expert witness fees that GMX incurs due to any fraudulent statements made by the Design-Build Firm regarding this certification.

18. SCRUTINIZED COMPANIES LISTS

Pursuant to the prohibitions of sections 215.473, section 215.4725, and section 287.135, Florida Statutes, by execution and submittal of this Contract the Design-Build Firm certifies to GMX that it is not on any of the following lists:

- Scrutinized Companies that Boycott Israel List;
- Scrutinized Companies with Activities in Sudan List; and
- Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

The Design-Build Firm further certifies that:

- It is not engaged in a boycott of Israel; and
- It has not been engaged in business operations in Cuba & Syria.

Alternatively, if the Design-Build Firm was unable to provide such certification, the Design-Build Firm provided to GMX a duly executed written explanation of the facts supporting the applicable exception to the requirement for certification in compliance with section 287.135, Florida Statutes.

The Design-Build Firm shall provide written notification to GMX of any changes to the certification or exception provided, as described above, immediately upon becoming aware of any such changes. GMX shall have the right to terminate for default the Contract in GMX's sole and absolute discretion if the Design-Build Firm is found to have submitted a false certificate or to have been placed on any list of scrutinized companies.

The Design-Build Firm shall not engage any Firm to perform Work under the Contract that does not meet the requirements pursuant to this provision.

19. ANTI-TRUST VIOLATOR VENDOR LIST

Pursuant to section 287.137, Florida Statutes, the Design-Build Firm certifies that neither it nor any affiliate has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation. A person or affiliate placed on the antitrust violator vendor list may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new 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 new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. The Design-Build Firm understands that false certification under this paragraph or being subsequently added to the list shall result in termination of the Contract, at the option of GMX.

20. E-VERIFY REQUIREMENTS

U.S. law requires companies to employ only U.S. citizens, or foreign citizens who have the necessary authorization to legally work in the United States.

Pursuant to section 448.095, Florida Statutes, any Design-Build Firm providing services to GMX must verify the employment eligibility of employees through the U.S. Department of Homeland Security's E-Verify system.

In addition, the Design-Build Firm shall verify that Subcontractors/Subconsultants performing Work on the Contract utilize the E-Verify system to verify the employment eligibility of employees hired by the Subcontractors/Subconsultants during the term of the Contract.

If the Design-Build Firm enters into a contract with a Subcontractor/Subconsultant, the Subcontractor/ Subconsultant shall provide the Design-Build Firm with an affidavit stating that the Subcontractor/ Subconsultant does not employ, contract with, or subcontract with an unauthorized alien, and the Design-Build Firm shall maintain a copy of such affidavit for the duration of the Contract.

GMX will consider employment by any Design-Build Firm or Subcontractor/Subconsultant of unauthorized aliens a violation of section 274A(e) of the Immigration and Nationality Act. Such violation will be cause for unilateral cancellation of this Contract by GMX, and/or Suspension of the Design-Build Firm/Subcontractor/ Subconsultant if it is determined that the Design-Build Firm/Subcontractor/Subconsultant knowingly employs unauthorized aliens.

21. FORCED LABOR AND HUMAN TRAFFICKING PROHIBITION

Pursuant to section 287.1346, Florida Statutes the Design-Build Firm certifies that it shall not engage in or knowingly permit the use of Forced Labor or Human Trafficking in the performance of the Contract or in the Work to be performed.

The Design-Build Firm further certifies that it has conducted reasonable due diligence to ensure that its Subcontractors/Subconsultants, and affiliated entities are not engaged in Forced Labor or Human Trafficking.

The Design-Build Firm shall comply with all applicable federal and state laws and regulations prohibiting Forced Labor and Human Trafficking, including but not limited to the Trafficking Victims Protection Act and applicable Florida statutes.

In the event that the Bidder submits a false certification or is placed on the Forced Labor Vendor List maintained by the State of Florida under section 287.1346, GMX reserves the right to terminate this Design-Build Firm for default.

As required by section 787.06, Florida Statutes, prior to execution of the Contract, the Successful Bidder shall provide GMX with an affidavit signed by an officer or representative of the Successful Bidder, under penalty of perjury, attesting that the Successful Bidder does not use coercion for labor or services as defined in that section.

22. FOREIGN COUNTRY OF CONCERN RESTRICTIONS

Pursuant to section 287.138, Florida Statutes the Design-Build Firm certifies that it is not:

- Owned by the government of a Foreign Country of Concern;
- An entity in which the government of a Foreign Country of Concern has a controlling interest; or
- Organized under the laws of or having its principal place of business in a Foreign Country of Concern.

If the Contract would grant the Design-Build Firm access to an individual's personal identifying information, the Design-Build Firm, prior to execution of the Contract, shall provide GMX with an affidavit signed by an officer or representative of the Design-Build Firm, under penalty of perjury, attesting that the Design-Build Firm does not meet any of the criteria set forth above, as required by section 287.138(4), Florida Statutes. A false certification or affidavit under this provision shall be grounds for GMX to terminate for default the Contract.

23. PROOF OF VEHICLE REGISTRATION

The Design-Build Firm shall register all vehicles used in the course of performing the Work as required by Chapter 320, Florida Statutes. If the Design-Build Firm fails to register any motor vehicle that it operates in Florida, pursuant to Chapter 320, Florida. Statutes, GMX may disqualify the Design-Build Firm from proposing on future GMX procurements, or GMX may suspend the Design-Build Firm from this and/or other GMX contracts.

24. CONFIDENTIALITY

To the extent that the Work under this Contract requires access to proprietary or trade secrets or business or financial data of GMX or other companies, and as long as such data remains proprietary or confidential, the Design-Build Firm shall protect such data from unauthorized use and disclosure in accordance with the provisions of Chapter 119, Florida Statutes.

25. CONSTRUCTION OF LANGUAGE

All words used herein in the singular form will extend to and include the plural. All words used in the plural form will extend to and include the singular. All words used in any gender will extend to and include all genders.

26. EXECUTION OF THE CONTRACT

If the Design-Build Firm is a firm or company owned by an individual, this Contract shall be executed in the name of the firm or company by the manual signature of the individual or sole proprietor. If the firm is a Partnership, this Contract shall be executed in the name of the partnership by the manual signature of the general partner. If a corporation, the Contract shall be executed in the name of the Corporation and shall bear the corporate seal and be signed by the President or the Vice-President, or a representative of the Design-Build Firm who is authorized either by position or by corporate resolution to contractually bind the Design-Build Firm in all aspects of the Contract. If a joint venture, the Contract shall be executed in the name of the joint venture and be signed by a person authorized to sign on behalf of the joint venture.

27. CHOICE OF LAW

This Contract shall be governed by and construed in accordance with the laws of the State of Florida.

Venue of any litigation arising out of this Contract shall exclusively be in the state courts in and for Miami-Dade County, Florida.

In the event of any litigation arising out of this Contract, the Design-Build Firm agrees that service of process on the Design-Build Firm may be made on its registered agent as designated in the corporate records of the Florida Division of Corporations.

The Design-Build Firm shall notify GMX in writing within thirty (30) Calendar Days of a change and the name of the successor registered agent.

These provisions are in addition to any methods of service of process allowed by the Florida Statutes.

28. WAIVER OF TRIAL BY JURY:

THE DESIGN-BUILD FIRM AND GMX HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT, AND ANY CONTRACT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, OR ACTIONS OF EITHER PARTY.

29. ENTIRE CONTRACT

This Contract embodies the whole agreement between the Parties and there are no inducements, promises, terms, conditions, or obligations made or entered into by either GMX or the Design-Build Firm other than contained herein. This Contract shall inure to the benefit of, and be binding on, the Parties or the successor(s), heirs, and lawful assigns.

30. THIRD-PARTY BENEFICIARY

It is specifically agreed between the Parties executing the Contract that it is not intended by any of the provisions of any part of the Contract to create in the public or any member thereof, a third-party beneficiary hereunder, or to authorize anyone not a party to the Contract to maintain a suit for personal injuries, bodily injury or property damage pursuant to the terms or provisions of the Contract.

31. NOTICES

All Notices required under this Contract shall be in writing. Notices shall be mailed or delivered as follows, unless a Party directs in writing that notices shall be provided to it at another location:

To the Agency:
Jose Hidalgo, MBA, CPPB, FCCM
Procurement Manager r
Greater Miami Expressway Agency (GMX)
3790 N.W. 21st Street
Miami, Florida 33142

With a copy to:

Jason Gonzalez
GMX General Counsel
Lawson Huck Gonzalez, PLLC
215 S. Monroe Street
Suite 320
Tallahassee, Florida 32301

To the Design-Build Firm: _____
_____
_____
_____
_____

32. CAPITALIZED TERMS

The capitalized terms used herein shall have the meaning ascribed to them in the Contract Documents.

33. SECTION HEADINGS

Any headings preceding the texts of the sections in this Contract and any table of contents shall be solely for the convenience of reference and shall neither constitute a part of this Contract nor affect its meaning, construction or effect.

34. SEVERABILITY

If any one or more of the covenants, agreements or provisions of this Contract shall be held invalid, it is the intent of the Parties that such covenants, agreements or provisions shall be deemed severable and that the remaining provisions remain in full force and effect.

35. ADDITIONAL TERMS

All Exhibits attached hereto contain additional terms of this Contract and are incorporated as if actually set forth herein.

36. COOPERATIVE PURCHASING (PIGGY-BACKING)

As may be applicable, pursuant to the Procurement Policy, other governmental agencies may utilize GMX contracts if the Design-Build Firm agrees to enter into a separate contract with such governmental agency(ies) incorporating the GMX contract terms and conditions.

37. ACKNOWLEDGEMENT & REPRESENTATION

The Parties to this Contract individually represent, warrant, and agree that:

(1) They have been represented by legal counsel of their choice in connection with the Contract;

(2) They are fully aware and clearly understand all of the terms and provisions contained in this Contract;

(3) They have voluntarily, with full knowledge and without coercion or duress of any kind, entered into this Contract;

(4) They are not relying on any representation, either written or oral, express or implied, made to them by any other party other than as set forth in this Contract; and

(5) The consideration received by them to enter into this Contract and the settlement contemplated by this Contract has been actual and adequate.

38. CERTIFICATION

This document is a GMX document maintained in an electronic format and no changes other than those approved by GMX may be made to this document without approval from GMX. The Design-Build Firm must submit any requested changes or revisions to GMX for approval prior to the Design-Build Firm executing this Agreement. By signing this document, the Design-Build Firm hereby represents that no change has been made to the text of this document.

By executing this Agreement, the undersigned certifies as follows:

☐ No changes have been made to this Design-Build Contract.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have caused this Contract to be executed by their respective and duly authorized officers as of the Effective Date defined herein.

GREATER MIAMI EXPRESSWAY AGENCY

By:_____

Rafael S. Garcia Date

Executive Director/CEO

[DESIGN-BUILD FIRM]

By: _____

Signature of Authorized Officer

_____

Print Name of Authorized Officer

_____

Title of Authorized Officer

Approved by GMX Board: _____

Exhibits Attached:

The following exhibits are incorporated herein and attached hereto, unless otherwise noted:

Exhibit A	Design-Build Scope of Services
Exhibit B	Design and Construction Criteria
Exhibit C	General Specifications for Design Build
Exhibit D	Solicitation Documents (inclusive of addenda)
Exhibit E	Design-Build Technical Proposal
Exhibit F	Design-Build Price Proposal Form
Exhibit G	Design-Build Contract Bond
Exhibit H	Sworn Statement on Public Entity Crimes and Debarment
Exhibit I	Small Business and/or Local Business Participation Statements
Exhibit J	Subcontractor/Subconsultant Utilization Report
Exhibit K	Procurement Policy*
Exhibit L	Small Business Participation Policy*
Exhibit M	Local Business Participation Policy*
Exhibit N	Code of Ethics*
Exhibit O	Vendor's Bill of Rights and Responsibilities
Exhibit P	Request for Authorization to Subcontract Work*
Exhibit Q	Annual Disclosure Form
Exhibit R	Contract Performance Evaluation Procedures and Form
Exhibit S	Insurance Requirements

* Current Policies and Forms available on the GMX website at:
https://www.gmx-way.com/business/procurement-documents