

CONSTRUCTION AGREEMENT

for

STIPULATED SUM

between

MANATEE COUNTY (AS OWNER)

and

POOLE & KENT COMPANY OF FLORIDA (AS
CONTRACTOR)

AGREEMENT NO. 20-TA003171SAM

CONSTRUCTION AGREEMENT FOR STIPULATED SUM

Southwest Water Reclamation Facility New Headworks and Chlorine Contact Chamber Rehabilitation and Recharge Well Pump Station

THIS AGREEMENT (“Agreement”) is made and entered into by and between Manatee County, a political subdivision of the State of Florida, referred to herein as “Owner”, and the firm of Poole & Kent Company of Florida, incorporated in the State of Delaware and registered and licensed to do business in the State of Florida (license # CGC061808), referred to herein as “Contractor.”

WHEREAS, the Owner intends to construct demolition/contrruction of the headworks and modifications to the chlorine contact chamber, the aforementioned improvements being hereinafter referred to and defined as the “Project”; and

WHEREAS, in response to Owner’s Invitation for Bid Construction No. 20-TA003171SAM (the “IFBC”), Contractor has submitted its Bid (the “Contractor’s Bid”) to provide the aforementioned construction services.

NOW THEREFORE, the Owner and the Contractor, in consideration of the mutual covenants hereinafter set forth, the sufficiency of which is hereby acknowledged, agree as follows:

1. Contract Documents

The Contract Documents consist of this Agreement and attached Exhibits, the attached General Conditions of the Construction Agreement, Supplementary Conditions (if any), Special Conditions (if any), Drawings (the titles of which are attached hereto as Exhibit A), Specifications (the titles of which are attached hereto as Exhibit B), Addenda issued prior to execution of this Agreement, the Invitation for Bid (including any Instructions to Bidders, Scope of Work, Bid Summary, Supplements, and Technical Specifications), any interpretations issued pursuant to the Invitation for Bid, the Contractor’s Bid, permits, notice of intent to award, Notice to Proceed, purchase order(s), any other documents listed in this Agreement, and Modifications [to include written Amendment(s), Change Order(s), Work Directive Change(s) and Field Directive(s)] issued after execution of this Agreement. These form the Agreement, and are as fully a part of the Agreement as if attached or repeated herein. This Agreement represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. No other documents shall be considered Contract Documents.

2. Work

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

3. Date of Commencement and Substantial Completion.

- A. Date of Commencement. The date of commencement of the Work shall be the date fixed in a Notice to Proceed issued by the Owner.
- B. Contract Time. The Contract Time shall be measured from the date of commencement.
- C. Substantial Completion. The Contractor shall achieve Substantial Completion of the entire Work not later than 548 days from the date of commencement, or as follows:

Portion of Work	Substantial Completion Date
N/A	N/A

subject to adjustments of this Contract Time as provided in the Contract Documents.

Time is of the essence in the Contract Documents and all obligations thereunder. If the Contractor fails to achieve Substantial Completion of the Work within the Contract Time and as otherwise required by the Contract Documents (to include not only the entire Work but any portion of the Work as set forth above), the Owner shall be entitled to retain or recover from the Contractor, as liquidated damages and not as a penalty, the sum of \$2,899.00 per calendar day, commencing upon the first day following expiration of the Contract Time and continuing until the actual date of Substantial Completion. Such liquidated damages are hereby agreed to be a reasonable estimate of damages the Owner will incur because of delayed completion of the Work. The Owner may deduct liquidated damages as described in this paragraph from any unpaid amounts then or thereafter due the Contractor under this Agreement. Any liquidated damages not so deducted from any unpaid amounts due the Contractor shall be payable to the Owner at the demand of the Owner, together with interest from the date of the demand at the maximum allowable rate.

4. Contract Sum

- A. Payment. The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Nineteen million, fifty-four thousand, ninety-two Dollars and twenty Cents (\$19,054,092.20), subject to additions and deductions as provided in the Contract Documents.
- B. Alternates. The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner.

None
- C. Unit Prices. Unit prices, if any, are reflected in the Contractor's Bid.

5. Payments

A. Progress Payments

- (1) Based upon Applications for Payment submitted to the Architect/Engineer by the Contractor and Certificates for Payment issued by the Architect/Engineer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.
- (2) The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.
- (3) Payments shall be made by Owner in accordance with the requirements of Section 218.735, Florida Statutes.
- (4) Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect/Engineer may require. This schedule, unless objected to by the Owner or Architect/Engineer, shall be used as a basis for reviewing the Contractor's Applications for Payment.
- (5) Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
- (6) Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
 - i. Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10.00%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 3.3.B. of the General Conditions;
 - ii. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), supported by paid receipts, less retainage of ten percent (10.00%);
 - iii. Subtract the aggregate of previous payments made by the Owner; and
 - iv. Subtract amounts, if any, for which the Architect/Engineer has withheld or nullified an Application for Payment, in whole or in part as provided in Section 3.3.C. of the General Conditions.

(7) The progress payment amount determined in accordance with Section 5.A(6) shall be further modified under the following circumstances:

- i. Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect/Engineer shall determine for incomplete Work, retainage applicable to such work and unsettled claims.
- ii. Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 3.2.B. of the General Conditions.

(8) Reduction or limitation of retainage, if any, shall be as follows:

Notwithstanding the foregoing, upon completion of at least 50% of the Work, as determined by the Architect/Engineer and Owner, the Owner shall reduce to five percent (5%) the amount of retainage withheld from each subsequent progress payment.

(9) Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

B. Final Payment. Final Payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

(1) The Contractor has fully performed the Work except for the Contractor's responsibility to correct Work as provided in Section 2.4.C. of the General Conditions, and to satisfy other requirements, if any, which extend beyond final payment; and

(2) A final Application for Payment has been approved by the Architect/Engineer.

6. Termination or Suspension.

A. Termination. The Agreement may be terminated by the Owner or the Contractor as provided in Article XIV of the General Conditions.

B. Suspension by Owner. The Work may be suspended by the Owner as provided in Article XIV of the General Conditions.

7. Other Provisions.

A. Substantial Completion Defined. Substantial Completion shall be defined as provided in Article I of the General Conditions. In the event a temporary certificate of occupancy or completion is issued establishing Substantial Completion, the Contractor shall diligently pursue the issuance of a permanent certificate of occupancy or completion.

- B. Project Meetings. There shall be a project meeting, at the jobsite or other location acceptable to the parties, on a regularly scheduled basis. The meeting will be attended by a representative of the Contractor, Architect/Engineer and Owner. These representatives shall be authorized to make decisions that are not otherwise contrary to the requirements of this Agreement.
- C. Weather. Any rainfall, temperatures below 32 degrees Fahrenheit or winds greater than 25 m.p.h. which actually prevents Work on a given day, shall be considered lost time and an additional day added to the Contract Time, provided no work could be done on site, and provided written notice has been submitted to the Owner by the Contractor documenting same.
- D. Shop Drawings; Critical Submittals. In consideration of the impact of timely review of submittals and shop drawings on the overall progress of the Work, it is hereby agreed that the Owner shall cause his agents and design professionals to accomplish the review of any particular "critical" submittals and/or shop drawings and return same to the Contractor within fourteen (14) days.
- E. Applications for Payment. Applications for Payment shall be submitted once monthly at regular intervals and shall include detailed documentation of all costs incurred.
- F. Punch List. Within 30 days after obtainment of Substantial Completion, the Owner shall generate a "punch list" of all work items requiring remedial attention by the Contractor. Within 5 days thereafter the Architect/Engineer shall assign a fair value to the punch list items, which sum shall be deducted from the next scheduled progress payment to the Contractor. Upon satisfactory completion of the punch list items, as certified by the Architect/Engineer, the previously deducted sum shall be paid to the Contractor.
- G. Closeout documentation. Within 30 days after obtainment of Substantial Completion and before final payment, Contractor shall gather and deliver to Owner all warranty documentation, all manufacturer's product and warranty literature, all manuals (including parts and technical manuals), all schematics and handbooks, and all as-built drawings.
- H. Governing Provisions; Conflicts. In the event of a conflict between this Agreement and the Specifications or as between the General Conditions and the Specifications, the Specifications shall govern.
- I. E-Verify. The Contractor's employment of unauthorized aliens is a violation of Section 274(e) of the Federal Immigration and Employment Act. The Contractor shall utilize the U.S. Department of Homeland Security E-Verify system to verify the employment eligibility of all new employees hired during the term of this Agreement, and shall require the same verification procedure of all Subcontractors.

8. Insurance and Bonding

If and to the extent required by the Invitation for Bid documents, the Contractor shall furnish insurance coverage for (but not necessarily limited to) workers' compensation, commercial general liability, auto liability, excess liability, and builder's risk. The Contractor shall furnish to the Owner all appropriate policies and Certificate(s) of Insurance. The Contractor shall also post a Payment and Performance Bond for the Contract Sum, within ten (10) days following notification of intent to award, and otherwise in accordance with the Invitation for Bid documents.

9. Independent Contractor

The Contractor acknowledges that it is functioning as an independent contractor in performing under the terms of this Agreement, and it is not acting as an employee of the Owner.

10. Entire Agreement

This Agreement (inclusive of the Contract Documents incorporated herein by reference) represents the full agreement of the parties.

11. Amendments; Waivers; Assignment

- A. Amendments. This Agreement may be amended only pursuant to an instrument in writing that has been jointly executed by authorized representatives of the parties hereto.
- B. Waivers. Neither this Agreement nor any portion of it may be modified or waived orally. However, each party (through its governing body or properly authorized officer) shall have the right, but not the obligation, to waive, on a case-by-case basis, any right or condition herein reserved or intended for the benefit or protection of such party without being deemed or considered to have waived such right or condition for any other case, situation, or circumstance and without being deemed or considered to have waived any other right or condition. No such waiver shall be effective unless made in writing with an express and specific statement of the intent of such governing body or officer to provide such waiver.
- C. Assignment. The rights and obligations of either party to this Agreement may be assigned to a third party only pursuant to a written amendment hereto.

12. Validity

Each of the Owner and Contractor represents and warrants to the other its respective authority to enter into this Agreement.

13. Covenant To Defend

Neither the validity of this Agreement nor the validity of any portion hereof may be challenged by any party hereto, and each party hereto hereby waives any right to initiate any such challenge. Furthermore, if this Agreement or any portion hereof is challenged by a third party in any judicial, administrative, or appellate proceeding (each

party hereby covenanting with the other party not to initiate, encourage, foster, promote, cooperate with, or acquiesce to such challenge), the parties hereto collectively and individually agree, at their individual sole cost and expense, to defend in good faith its validity through a final judicial determination or other resolution, unless all parties mutually agree in writing not to defend such challenge or not to appeal any decision invalidating this Agreement or any portion thereof.

14. Disclaimer of Third-Party Beneficiaries; Successors and Assigns

This Agreement is solely for the benefit of the parties hereto, and no right, privilege, or cause of action shall by reason hereof accrue upon, to, or for the benefit of any third party. Nothing in this Agreement is intended or shall be construed to confer upon or give any person, corporation, partnership, trust, private entity, agency, or other governmental entity any right, privilege, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof. This Agreement shall be binding upon, and its benefits and advantages shall inure to, the successors and assigns of the parties hereto.

15. Construction

- A. Headings and Captions. The headings and captions of articles, sections, and paragraphs used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or be taken into consideration in interpreting this Agreement.

- B. Legal References. All references to statutory sections or chapters shall be construed to include subsequent amendments to such provisions, and to refer to the successor provision of any such provision. References to “applicable law” and “general law” shall be construed to include provisions of local, state and federal law, whether established by legislative action, administrative rule or regulation, or judicial decision.

16. Severability

The provisions of this Agreement are declared by the parties hereto to be severable. In the event any term or provision of this Agreement shall be held invalid by a court of competent jurisdiction, such invalid term or provision should not affect the validity of any other term or provision hereof; and all such terms and provisions hereof shall be enforceable to the fullest extent permitted by law as if such invalid term or provision had never been part of this Agreement; provided, however, if any term or provision of this Agreement is held to be invalid due to the scope or extent thereof, then, to the extent permitted by law, such term or provision shall be automatically deemed modified in order that it may be enforced to the maximum scope and extent permitted by law.

17. Governing Law; Venue

This Agreement shall be governed by the laws of the State of Florida. Venue for any petition for writ of certiorari or other court action allowed by this Agreement shall be in the Circuit Court of the Twelfth Judicial Circuit in and for Manatee County, Florida.

18. Attorney's Fees and Costs

In any claim dispute procedure or litigation arising from this Agreement, each party hereto shall be solely responsible for paying its attorney's fees and costs.

19. Notices

All notices, comments, consents, objections, approvals, waivers, and elections under this Agreement shall be in writing and shall be given only by hand delivery for which a receipt is obtained, or certified mail, prepaid with confirmation of delivery requested, or by electronic mail with delivery confirmation. All such communications shall be addressed to the applicable addressees set forth below or as any party may otherwise designate in the manner prescribed herein.

To the Owner:

Manatee County, Public Works Department
Attn: Anthony Benitez
1022 26th Avenue East
Bradenton, FL 34208
Email: anthony.benitez@mymantee.org

To the Contractor:

Poole & Kent Company of Florida
Attn: Dave BuShea
1715 W. Lemon Street
Tampa, FL 33606
Email: daveb@pkflorida.com

Notices, comments, consents, objections, approvals, waivers, and elections shall be deemed given when received by the party for whom such communication is intended at such party's address herein specified, or such other physical address or email address as such party may have substituted by notice to the other.

20. Public Records Law

The Contractor shall comply with the Florida Public Records Act (Chapter 119, Florida Statutes), and shall:

- A. Keep and maintain public records required by the Owner to perform the services called for in this Agreement.
- B. Upon request from the Owner's custodian of public records, provide the Owner 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, Florida Statutes or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the Owner.

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

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 AGREEMENT, CONTACT THE OWNER'S CUSTODIAN OF PUBLIC RECORDS AT 941-748-4501, EXT. 5845; DEBBIE.SCACCIAOCE@MYMANATEE.ORG; POST OFFICE BOX 1000, BRADENTON, FLORIDA 34206.

21. Exhibits. Exhibits to this Agreement are as follows:

Exhibit A—Title(s) of Drawings

Exhibit B—Title(s) of Specifications

Exhibit C—Affidavit of No Conflict

Exhibit D—Certificate(s) of Insurance

Exhibit E—Payment and Performance Bond

Exhibit F—Standard Forms

1. Application for Payment
2. Certificate of Substantial Completion
3. Final Reconciliation / Warranty / Affidavit
4. Change Order

WHEREFORE, the parties hereto have executed this Agreement as of the date last executed below.

POOLE & KENT COMPANY OF FLORIDA

By: 

Printed Name: Patrick H. Carr

Title: President & CEO

Date: 2-28-20

MANATEE COUNTY, a political subdivision
of the State of Florida

By: _____

Printed Name: Jacob Erickson

Title: Interim Procurement Official

Date: _____

GENERAL CONDITIONS
of the
CONSTRUCTION AGREEMENT

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GENERAL CONDITIONS ARTICLE I, DEFINITIONS

1.1 Definitions

For purposes of the Contract Documents, the following terms shall have the following meanings.

- A. Acceptance: The acceptance of the Project into the Owner's operating public infrastructure.
- B. Application for Payment: The form approved and accepted by the Owner, which is to be used by Contractor in requesting progress payments or final payment and which is to include such supporting documentation as is required by the Contract Documents.
- C. Architect/Engineer: McKim & Creed, a North Carolina corporation, registered and licensed to do business in the State of Florida.
- D. Change Order: A written order signed by the Owner, the Architect/Engineer and the Contractor authorizing a change in the Project Plans and/or Specifications and, if necessary, a corresponding adjustment in the Contract Sum and/or Contract Time, pursuant to Article V.
- E. Construction Services: The Construction Services to be provided by Contractor pursuant to Section 2.4, in accordance with the terms and provisions of the Contract Documents.
- F. Construction Team: The working team established pursuant to Section 2.1.B.
- G. Contract Sum: The total compensation to be paid to the Contractor for Construction Services rendered pursuant to the Contract Documents, as set forth in Contractor's Bid (or Guaranteed Maximum Price Addendum), unless adjusted in accordance with the terms of the Contract Documents.
- H. Contract Time: The time period during which all Construction Services are to be completed pursuant to the Contract Documents, to be set forth in the Project Schedule.
- I. Contractor's Personnel: The Contractor's key personnel designated by Contractor.
- J. Days: Calendar days except when specified differently. When time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a

Saturday or Sunday or legal holiday, such day will be omitted from the computation.

- K. Defective: When modifying the term “Work”, referring to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or that does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or that has been damaged prior to Owner’s approval of final payment (unless responsibility for the protection thereof has been assumed by Owner).
- L. Field Directive: A written order issued by Owner which orders minor changes in the Work not involving a change in Contract Time, to be paid from the Owner’s contingency funds.
- M. Final Completion Date: The date upon which the Project is fully constructed and all Work required on the Project and Project Site is fully performed as verified in writing by the Owner.
- N. Float Time: The time available in the Project Schedule during which an unexpected activity can be completed without delaying Substantial Completion of the Work.
- O. Force Majeure: Those conditions constituting excuse from performance as described in and subject to the conditions described in Article XII.
- P. Notice to Proceed: Written notice by Owner (after execution of Contract) to Contractor fixing the date on which the Contract Time will commence to run and on which Contractor shall start to perform the Work.
- Q. Owner: Manatee County, a political subdivision of the State of Florida.
- R. Owner’s Project Representative: The individual designated by Owner to perform those functions set forth in Section 7.8.
- S. Payment and Performance Bond: The Payment and Performance Bond security posted pursuant to Section 2.4.Y to guarantee payment and performance by the Contractor of its obligations hereunder.
- T. Permitting Authority: Any applicable governmental authority acting in its governmental and regulatory capacity which is required to issue or grant any permit, certificate, license or other approval which is required as a condition precedent to the commencement or approved of the Work, or any part thereof, including the building permit.

- U. Procurement Ordinance: The Manatee County Procurement Code, Chapter 2-26 of the Manatee County Code of Laws, as amended from time to time.
- V. Progress Report: A report to Owner that includes all information required pursuant to the Contract Documents and submitted in accordance with Section 2.4.EE, hereof.
- W. Project: The total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by Owner and by separate contractors. For the purposes of the Contract Documents, the term Project shall include all areas of proposed improvements and all areas which may reasonably be judged to have an impact on the Project.
- X. Project Costs: The costs incurred by the Contractor to plan, construct and equip the Project and included within, and paid as a component of, the Contract Sum.
- Y. Project Manager: Subject to the prior written consent of Owner, the individual designated to receive notices on behalf of the Contractor, or such other individual designated by the Contractor, from time to time, pursuant to written notice in accordance with the Contract Documents.
- Z. Project Plans and Specifications: The one hundred percent (100%) construction drawings and specifications prepared by the Architect/Engineer, and any changes, supplements, amendments or additions thereto approved by the Owner, which shall also include any construction drawings and final specifications required for the repair or construction of the Project, as provided herein.
- AA. Project Schedule: The schedule and sequence of events for the commencement, progression and completion of the Project, developed pursuant to Section 2.3., as such schedule may be amended as provided herein.
- BB. Project Site: The site depicted in the Project Plans and Specifications, inclusive of all rights of way, temporary construction easements or licensed or leased sovereign lands.
- CC. Subcontractor: Any individual (other than a direct employee of the Contractor) or organization retained by Contractor to plan, construct or equip the Project pursuant to Article IV.
- DD. Substantial Completion and Substantially Complete: The stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use; provided, however, that as a condition precedent to Substantial Completion, the Owner has received all certificates of occupancy or

completion and other permits, approvals, licenses, and other documents from any governmental authority which are necessary for the beneficial occupancy of the Project or any designated portion thereof.

- EE. Substantial Completion Date: The date on which the Project or designated portion thereof is deemed to be Substantially Complete, as evidenced by receipt of (i) the Architect/Engineer's certificate of Substantial Completion, (ii) written Acceptance of the Project by the Owner, and (iii) approvals of any other authority as may be necessary or otherwise required.
- FF. Substitute: Materials or equipment offered by the Contractor as an alternative to that set forth in the Project Plans and Specifications, where (i) the Project Plans and Specifications do not authorize an "approved equal", or (ii) the Owner, in its reasonable discretion, determines that a pre-authorized "approved equal" will result in a substantial change to the Work because of cost, quality or other difference in comparison to the materials or equipment specified.
- GG. Unit Price Work: Work to be paid for on the basis of unit prices.
- HH. Work: The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.
- II. Work Directive Change: A written directive to Contractor, issued on or after the effective date of the Agreement pursuant to Section 5.8 and signed by Owner's Project Representative, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed or responding to emergencies.

ARTICLE II , RELATIONSHIP AND RESPONSIBILITIES

2.1 Relationship between Contractor and Owner

The Contractor accepts the relationship of trust and confidence established with Owner pursuant to the Contract Documents. The Contractor shall furnish its best skill and judgment and cooperate with Owner and Owner's Project Representative in furthering the interests of the Owner. The Contractor agrees to provide the professional services required to complete the Project consistent with the Owner's direction and the terms of the Contract Documents. All services provided hereunder by Contractor, either directly or through Subcontractors, shall be provided in accordance with sound construction practices and applicable professional construction standards.

- A. Purpose. The purpose of the Contract Documents is to provide for the provision of construction services for the Project on the Project Site by the Contractor, and construction of the Project by the Contractor in accordance with the Project Plans

and Specifications. The further purpose of the Contract Documents is to define and delineate the responsibilities and obligations of the parties to the Contract Documents and to express the desire of all such parties to cooperate to accomplish the purposes and expectations of the Contract Documents.

- B. Construction Team. The Contractor, Owner and Architect/Engineer shall be called the “Construction Team” and shall work together as a team commencing upon full execution of the Contract Documents through Substantial Completion. As provided in Section 2.2, the Contractor and Architect/Engineer shall work jointly through completion and shall be available thereafter should additional services be required. The Contractor shall provide leadership to the Construction Team on all matters relating to construction. The Contractor understands, acknowledges and agrees that the Architect/Engineer shall provide leadership to the Construction Team on all matters relating to design.
- C. Owner’s Reliance on Bid (or Guaranteed Maximum Price Addendum). The Contractor acknowledges that the representations, statements, information and pricing contained in its Bid (or Guaranteed Maximum Price Addendum) have been relied upon by the Owner and have resulted in the award of this Project to the Contractor.

2.2 General Contractor Responsibilities

In addition to the other responsibilities set forth herein, the Contractor shall have the following responsibilities pursuant to the Contract Documents:

- A. Personnel. The Contractor represents that it has secured, or shall secure, all personnel necessary to perform the Work, none of whom shall be employees of the Owner. Primary liaison between the Contractor and the Owner shall be through the Owner’s Project Representative and Contractor’s Project Manager. All of the services required herein shall be performed by the Contractor or under the Contractor’s supervision, and all personnel engaged in the Work shall be fully qualified and shall be authorized or permitted under law to perform such services.
- B. Cooperation with Architect/Engineer. The Contractor’s services shall be provided in conjunction with the services of the Architect/Engineer. In the performance of professional services, the Contractor acknowledges that time is critical for Project delivery. The Contractor acknowledges that timely construction utilizing the services of an Architect/Engineer and a Contractor requires maximum cooperation between all parties.
- C. Timely Performance. The Contractor shall perform all services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work, in accordance with the Project Schedule. Verification of estimated Project Schedule goals will be made as requested by the Owner.
- D. Duty to Defend Work. In the event of any dispute between the Owner and any Permitting Authority that relates to the quality, completeness or professional workmanship of the Contractor’s services or Work, the Contractor shall, at its

sole cost and expense, cooperate with the Owner to defend the quality and workmanship of the Contractor's services and Work.

- E. Trade and Industry Terminology. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of Bids (or at the time of execution of the Guaranteed Maximum Price Addendum), except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of Owner or Contractor, or any of their agents or employees from those set forth in the Contract Documents. Computed dimensions shall govern over scaled dimensions.

2.3 Project Schedule

The Contractor, within ten (10) days after being awarded the Agreement, shall prepare and submit for the Owner's and Architect/Engineer's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of Work.

- A. The Project Schedule shall show a breakdown of all tasks to be performed, and their relationship in achieving the completion of each phase of Work, subject to review of Owner and Architect/Engineer and approval or rejection by Owner. The Project Schedule shall show, at a minimum, the approximate dates on which each segment of the Work is expected to be started and finished, the proposed traffic flows during each month, the anticipated earnings by the Contractor for each month and the approximate number of crews and equipment to be used. The Project Schedule shall include all phases of procurement, approval of shop drawings, proposed Change Orders in progress, schedules for Change Orders, and performance testing requirements. The Project Schedule shall include a construction commencement date and Project Substantial Completion Date, which dates shall accommodate known or reasonably anticipated geographic, atmospheric and weather conditions.
- B. The Project Schedule shall serve as the framework for the subsequent development of all detailed schedules. The Project Schedule shall be used to

verify Contractor performance and to allow the Owner's Project Representative to monitor the Contractor's efforts.

- C. The Project Schedule may be adjusted by the Contractor pursuant to Article V. The Owner shall have the right to reschedule Work provided such rescheduling is in accord with the remainder of terms of the Contract Documents.
- D. The Contractor shall prepare a submittal schedule, promptly after being awarded the Agreement and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect/Engineer's approval. The Architect/Engineer's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect/Engineer reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.
- E. The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect/Engineer.

2.4 Construction Services.

The Contractor shall provide the following Construction Services:

- A. Construction of Project. The Contractor shall work from the receipt of a Notice to Proceed through the Substantial Completion of the Project in accordance with the terms of the Contract Documents to manage the construction of the Project. The Construction Services provided by the Contractor to construct the Project shall include without limitation (1) all services necessary and commensurate with established construction standards, and (2) all services described in the Invitation for Bid (or Request for Proposal) and the Bid (or Guaranteed Maximum Price Addendum).
- B. Notice to Proceed. A Notice to Proceed may be given at any time within thirty (30) days after the effective date of the Agreement. Contractor shall start to perform the Work on the date specified in the Notice to Proceed, but no Work shall be done at the site prior to the issuance of the Notice to Proceed.
- C. Quality of Work. If at any time the labor used or to be used appears to the Owner as insufficient or improper for securing the quality of Work required or the required rate of progress, the Owner may order the Contractor to increase its efficiency or to improve the character of its Work, and the Contractor shall conform to such an order. Any such order shall not entitle Contractor to any additional compensation or any increase in Contract Time. The failure of the Owner to demand any increase of such efficiency or any improvement shall not release the Contractor from its obligation to secure the quality of Work or the rate of progress necessary to complete the Work within the limits imposed by the Contract Documents. The Owner may require the Contractor to remove such personnel as the Owner deems incompetent, careless, insubordinate or

otherwise objectionable, or whose continued employment on the Project is deemed to be contrary to the Owner's interest. The Contractor shall provide good quality workmanship and shall promptly correct construction defects without additional compensation. Acceptance of the Work by the Owner shall not relieve the Contractor of the responsibility for subsequent correction of any construction defects.

- D. Materials. All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by Architect/Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instruction of the applicable supplier except as otherwise provided in the Contract Documents.
- E. Accountability for Work. The Contractor shall be solely accountable for its Work, including plans review and complete submittals. The Contractor shall be solely responsible for means, methods, techniques, sequences and procedures of construction. If a specific means, method, technique, sequence or procedure of construction is required by the Contract Documents, the Contractor may utilize an alternative means, method, technique, sequence or procedure acceptable to the Architect/Engineer if the Contractor submits sufficient information to allow the Architect/Engineer to determine that the alternative is equivalent to that required by the Contract Documents.
- F. Contract Sum. The Contractor shall construct the Project so that the Project can be built for a cost not to exceed the Contract Sum.
- G. Governing Specifications. The Project shall be constructed in accordance with applicable Owner design standards and guidelines. In the absence of specified Owner design standards or guidelines, the Architect/Engineer shall use, and the Contractor shall comply with, the most recent version of the applicable FDOT or AASHTO design standards. In general, the Project shall be constructed by the Contractor in accordance with applicable industry standards. The Contractor shall be responsible for utilizing and maintaining current knowledge of any laws, ordinances, codes, rules, regulations, standards, guidelines, special conditions, specifications or other mandates relevant to the Project or the services to be performed.
- H. Adherence to Project Schedule. The development and equipping of the Project shall be undertaken and completed in accordance with the Project Schedule, and within the Contract Time described therein.
- I. Superintendent. The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project Site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

- (1) The Contractor, as soon as practicable after award of the Agreement, shall furnish in writing to the Owner through the Architect/Engineer the name and qualifications of the proposed superintendent. The Architect/Engineer may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect/Engineer has reasonable objection to the proposed superintendent or (2) that the Architect/Engineer requires additional time to review. Failure of the Architect/Engineer to reply within 14 days shall constitute notice of no reasonable objection.
- (2) The Contractor shall not employ a proposed superintendent to whom the Owner or Architect/Engineer has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not be unreasonably withheld or delayed.
- J. Work Hours. Contractor shall provide competent, suitable qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours, and Contractor shall not permit overtime work or the performance of Work on a Saturday, Sunday or legal holiday without Owner's written consent given after prior notice to Architect/Engineer (at least seventy-two (72) hours in advance).
- K. Overtime-Related Costs. Contractor shall pay for all additional Architect/Engineer charges, inspection costs and Owner staff time for any overtime work which may be authorized. Such additional charges shall be an obligation of Contractor and no extra payment shall be made by Owner because such overtime work. At Owner's option, such overtime costs may be deducted from Contractor's monthly payment request or Contractor's retainage prior to release of final payment. Contractor's obligation to pay all overtime-related costs shall not apply if Contractor is directed by Owner to work overtime solely for Owner's convenience.
- L. Insurance, Overhead and Utilities. Unless otherwise specified, Contractor shall furnish and assume full responsibility for all bonds, insurance, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.
- M. Cleanliness. The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project Site. Contractor shall restore to original conditions all property not designated for alteration by the Contract Documents If the Contractor fails to clean up as provided in the Contract

Documents, the Owner may do so and Owner shall be entitled to reimbursement from Contractor.

- N. Loading. Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.
- O. Safety and Protection. Contractor shall comply with the Florida Department of Commerce Safety Regulations and any local safety regulations. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of and shall provide the necessary protection to prevent damage, injury or loss to:
- (1) All employees on the Work and other persons and organizations who may be affected thereby;
 - (2) All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project Site; and
 - (3) Other property at the Project Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement during construction.

Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss, and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall provide and maintain all passageways, guard fences, lights and other facilities for the protection required by public authority or local conditions. Contractor shall provide reasonable maintenance of traffic for the public and preservation of the Owner's business, taking into full consideration all local conditions. Contractor's duties and responsibilities for safety and protection with regard to the Work shall continue until such time as all the Work is completed.

- P. Emergencies. In emergencies affecting the safety or protection of persons or the Work or property at the Project Site or adjacent thereto, Contractor, without special instruction or authorization from Architect/Engineer or Owner, shall act to prevent threatened damage, injury or loss. Contractor shall give Owner prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Owner determines that a change in the Project is required because of the action taken in response to an emergency, a Work Directive Change or Change Order will be issued to document the consequences of the changes or variation.
- Q. Substitutes. For Substitutes not included with the Bid (or Guaranteed Maximum Price Addendum), but submitted after the effective date of the Agreement (or

Guaranteed Maximum Price Addendum), Contractor shall make written application to Architect/Engineer for acceptance thereof, certifying that the proposed Substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will also contain an itemized estimate of all costs and delays or schedule impacts that will result directly or indirectly from review, acceptance and provision of such Substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which will be considered by the Architect/Engineer in evaluating the proposed Substitute. Architect/Engineer may require Contractor to furnish at Contractor's expense, additional data about the proposed Substitute. In rendering a decision, Owner, Architect/Engineer and Contractor shall have access to any available Float Time in the Project Schedule. If Substitute materials or equipment not included as part of the Bid (or Guaranteed Maximum Price Addendum), but proposed after the effective date of the Agreement, are accepted and are less costly than the originally specified materials or equipment, then the net difference in cost shall be credited to the Owner and an appropriate Change Order executed to adjust the Contract Sum.

- (1) Architect/Engineer will be allowed a reasonable time within which to evaluate each proposed Substitute. Architect/Engineer will be the sole judge of acceptability and no Substitute will be ordered, installed or utilized without Architect/Engineer's prior written acceptance which will be evidenced by either a Change Order or an approved shop drawing. Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any Substitute.
- (2) Contractor shall reimburse Owner for the charges of Architect/Engineer and Architect/Engineer's Consultants for evaluating each proposed Substitute submitted after the effective date of the Agreement and all costs resulting from any delays in the Work while the Substitute was undergoing review.

R. Surveys and Stakes. The Contractor shall furnish, free of charge, all labor, stakes, surveys, batter boards for structures, grade lines and other materials and supplies and shall set construction stakes and batter boards for establishing lines, position of structures, slopes and other controlling points necessary for the proper prosecution of the Work. Where rights-of-way, easements, property lines or any other conditions which make the lay-out of the Project or parts of the Project critical are involved, the Contractor shall employ a competent surveyor who is registered in the State of Florida for lay-out and staking. These stakes and marks shall constitute the field control by and in accord with which the Contractor shall govern and execute the Work. The Contractor shall be held responsible for the preservation of all stakes and marks and if for any reason any of the stakes or marks or batter boards become destroyed or disturbed, they shall be immediately and accurately replaced by the Contractor.

S. Suitability of Project Site. The Contractor has, by careful examination, satisfied itself as to the nature and location of the Work and all other matters which can in any way affect the Work, including, but not limited to details pertaining to borings,

as shown on the drawings. Such boring information is not guaranteed to be more than a general indication of the materials likely to be found adjacent to holes bored at the Project Site, approximately at the locations indicated. The Contractor has examined boring data, where available, made its own interpretation of the subsurface conditions and other preliminary data, and has based its Bid (or Guaranteed Maximum Price Addendum) on its own opinion of the conditions likely to be encountered. Except as specifically provided in Sections 2.4.U., 5.4 and 5.5, no extra compensation or extension of time will be considered for any Project Site conditions that existed at the time of bidding (or at the time of execution of the Guaranteed Maximum Price Addendum). No verbal agreement or conversation with any officer, agent or employee of the Owner, before or after the execution of the Agreement, shall affect or modify any of the terms or obligations herein contained.

- T. Project Specification Errors. If the Contractor, during the Work, finds that the drawings, specifications or other Contract Documents cannot be followed, the Contractor shall immediately inform the Owner in writing, and the Owner shall promptly check the accuracy of the information. Any Work done after such discovery, until any necessary changes are authorized, will be done at the Contractor's sole risk of non-payment and delay.
- U. Remediation of Contamination. Owner and Contractor recognize that remediation of subsurface conditions may be necessary due to potential hazardous materials contamination. Because the presence or extent of any contamination is not known, Contractor shall include no cost in the Contract Sum, and no time in the Project Schedule, for cost or delays that might result from any necessary remediation. The Project Schedule will provide a period of time between demolition activities and the start of the next activity to commence any remediation if needed. Contractor shall use all reasonable efforts in scheduling the Project to minimize the likelihood that remediation delays construction. Any hazardous materials remediation Work which Contractor agrees to perform shall be done pursuant to a Change Order or amendment consistent with the following:
- (1) The dates of Substantial Completion shall be equitably adjusted based on delays, if any, incurred in connection with remediation efforts.
 - (2) Contractor, and any Subcontractors which have mobilized on the Project Site, shall be paid for demonstrated costs of overhead operations at the Project Site during any period of delay of more than seven (7) days, except to the extent that Work proceeds concurrently with remediation. The categories of costs to be reimbursed are limited to those reasonably incurred at the jobsite during the delay period (such as trailers or offices, telephones, faxes, and the like); equipment dedicated to the Project and located at the Project Site; salaries and associated costs of personnel dedicated to the Project to the extent that they do not perform work on other projects; and other jobsite costs that are reasonable and which are incurred during the delay period. Subcontractors and suppliers which have not mobilized are limited to the costs set forth in Section 2.4.U(3).

- (3) Contractor and any Subcontractor or supplier on the Project who is eligible for compensation shall be paid any demonstrated costs of escalation in materials or labor, and reasonable costs of off-site storage of materials identified to the Project, arising because of any delay of more than seven (7) days. Such Contractor, Subcontractors and suppliers are obligated to take all reasonable steps to mitigate escalation costs, such as through early purchase of materials.
- (4) Contractor, for itself and all Subcontractors and suppliers on the Project, hereby agrees that the extension of time for delays under Section 2.4.U(1), and payment of the costs identified in Sections 2.4.U(2) and/or Section 2.4.U(3), are the sole remedies for costs and delays described in this Section, and waives all claims and demands for extended home office overhead (including, but not limited to, "Eichleay" claims), lost profit or lost opportunities, and any special, indirect, or consequential damages arising as a result of delays described in this Section. The Contract Sum shall be adjusted to reflect payment of allowable costs.
- (5) If any delay described in this section causes the time or cost for the Project to exceed the Contract Time or the Contract Sum, then the Owner may terminate the Agreement pursuant to Section 14.2.
- (6) Contractor and any Subcontractor or supplier seeking additional costs under this Section 2.4.U. shall promptly submit estimates, or any costs as requested by Owner, and detailed back-up for all costs when payment is sought or whenever reasonably requested by Owner. All costs are auditable, at Owner's discretion. Bid, estimate and pricing information reasonably related to any request for additional compensation will be provided promptly upon request.
- (7) Contractor shall include provisions in its subcontracts and purchase orders consistent with this Section.

V. Interfacing.

- (1) The Contractor shall take such measures as are necessary to ensure proper construction and delivery of the Project, including but not limited to providing that all procurement of long-lead items, the separate construction Subcontractors, and the general conditions items are performed without duplication or overlap to maintain completion of all Work on schedule. Particular attention shall be given to provide that each Subcontractor bid package clearly identifies the Work included in that particular separate subcontract, its scheduling for start and completion, and its relationship to other separate contractors.
- (2) Without assuming any design responsibilities of the Architect/Engineer, the Contractor shall include in the Progress Reports required under this Section 2.4 comments on overlap with any other separate subcontracts, omissions,

lack of correlation between drawings, and any other deficiencies noted, in order that the Architect/Engineer may arrange for necessary corrections.

- W. Job Site Facilities. The Contractor shall arrange for all job site facilities required and necessary to enable the Contractor and Architect/Engineer to perform their respective duties and to accommodate any representatives of the Owner which the Owner may choose to have present on the Project Site.
- X. Weather Protection. The Contractor shall provide temporary enclosures of building areas to assure orderly progress of the Work during periods when extreme weather conditions are likely to be experienced. The Contractor shall also be responsible for providing weather protection for Work in progress and for materials stored on the Project Site. A contingency plan shall be prepared upon request of the Owner for weather conditions that may affect the construction.
- Y. Payment and Performance Bond. Prior to the construction commencement date, the Contractor shall obtain, for the benefit of and directed to the Owner, a Payment and Performance Bond satisfying the requirements of Section 255.05, Florida Statutes, covering the faithful performance by the Contractor of its obligations under the Contract Documents, including but not limited to the construction of the Project on the Project Site and the payment of all obligations arising thereunder, including all payments to Subcontractors, laborers, and materialmen. The surety selected by the Contractor to provide the Payment and Performance Bond shall be approved by the Owner prior to the issuance of such Bond, which approval shall not be unreasonably withheld or delayed provided that the surety is rated A or better by Best's Key Guide, latest edition. For Changes in the Work that result in an increase in the Contract Sum, Owner reserves the right to require the Contractor to secure and deliver additive riders to the Payment and Performance Bond.
- Z. Construction Phase; Building Permit; Code Inspections. Unless otherwise provided, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.
- (1) Building Permit. The Owner and Architect/Engineer shall provide such information to any Permitting Authority as is necessary to obtain approval from the Permitting Authority to commence construction prior to beginning construction. The Contractor shall pull any required building permit and shall be responsible for delivering and posting the building permit at the Project Site prior to the commencement of construction. The cost of the building permit is included in the Contract Sum. The Owner and Architect/Engineer shall fully cooperate with the Contractor when and where necessary.
- (2) Code Inspections. The Project requires detailed code compliance inspection during construction in disciplines determined by any Permitting Authority. These disciplines normally include, but are not necessarily limited to, structural, mechanical, electrical, plumbing, general building and fire. The

Contractor shall notify the appropriate inspector(s) and the Architect/Engineer, no less than 24 hours in advance, when the Work is ready for inspection and before the Work is covered up. All inspections shall be made for conformance with the applicable ordinances and building codes. Costs for all re-inspections of Work found defective and subsequently repaired shall not be included as Project Costs and shall be borne by the Contractor or as provided in the contract between Contractor and Subcontractor.

(3) Contractor's Personnel. The Contractor shall maintain sufficient off-site support staff and competent full-time staff at the Project Site authorized to act on behalf of the Contractor to coordinate, inspect, and provide general direction of the Work and progress of the Subcontractors. At all times during the performance of the Work, the Owner shall have the right to demand replacement of Contractor Personnel to whom the Owner has reasonable objection, without liability to the Contractor.

(4) Lines of Authority. To provide general direction of the Work, the Contractor shall establish and maintain lines of authority for its personnel and shall provide this information to the Owner and all other affected parties, such as the code inspectors of any Permitting Authority, the Subcontractors, and the Architect/Engineer. The Owner and Architect/Engineer may attend meetings between the Contractor and his Subcontractors; however, such attendance is optional and shall not diminish either the authority or responsibility of the Contractor to administer the subcontracts.

AA. Quality Control. The Contractor shall develop and maintain a program, acceptable to the Owner and Architect/Engineer, to assure quality control of the construction. The Contractor shall be responsible for and supervise the Work of all Subcontractors, providing instructions to each when their Work does not conform to the requirements of the Project Plans and Specifications, and the Contractor shall continue to coordinate the Work of each Subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the Work. Should a disagreement occur between the Contractor and the Architect/Engineer over the acceptability of the Work, the Owner, at its sole discretion and in addition to any other remedies provided herein, shall have the right to determine the acceptability, provided that such determination is consistent with standards for construction projects of this type and generally accepted industry standards for workmanship in the State of Florida.

BB. Management of Subcontractors. All Subcontractors shall be compensated in accordance with Article IV. The Contractor shall solely control the Subcontractors. The Contractor shall negotiate all Change Orders and Field Orders with all affected Subcontractors and shall review the costs and advise the Owner and Architect/Engineer of their validity and reasonableness, acting in the Owner's best interest. When there is an imminent threat to health and safety, and Owner's Project Representative concurrence is impractical, the Contractor shall act immediately to remove the threats to health and safety and shall subsequently fully inform Owner of all such action taken. The Contractor shall

also carefully review all shop drawings and then forward the same to the Architect/Engineer for review and actions. The Architect/Engineer will transmit them back to the Contractor, who will then issue the shop drawings to the affected Subcontractor for fabrication or revision. The Contractor shall maintain a suspense control system to promote expeditious handling. The Contractor shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of him by the Subcontractors and shall maintain a business system to promote timely response. The Contractor shall inform the Architect/Engineer which shop drawings or requests for clarification have the greatest urgency, to enable the Architect/Engineer to prioritize requests coming from the Contractor. The Contractor shall advise the Owner and Architect/Engineer when timely response is not occurring on any of the above.

CC. Job Requirements.

- (1) The Contractor shall provide each of the following as a part of its services hereunder:
 - (a) Maintain a log of daily activities, including manpower records, equipment on site, weather, delays, major decisions, etc;
 - (b) Maintain a roster of companies on the Project with names and telephone numbers of key personnel;
 - (c) Establish and enforce job rules governing parking, clean-up, use of facilities, and worker discipline;
 - (d) Provide labor relations management and equal opportunity employment for a harmonious, productive Project;
 - (e) Provide and administer a safety program for the Project and monitor for subcontractor compliance without relieving them of responsibilities to perform Work in accordance with best acceptable practice;
 - (f) Provide a quality control program as provided under Section 2.4.C above;
 - (g) Provide miscellaneous office supplies that support the construction efforts which are consumed by its own forces;
 - (h) Provide for travel to and from its home office to the Project Site and to those other places within Manatee County as required by the Project;
 - (i) Verify that tests, equipment, and system start-ups and operating and maintenance instructions are conducted as required and in the presence of the required personnel and provide adequate records of same to the Architect/Engineer;
 - (j) Maintain at the job site orderly files for correspondence, reports of job conferences, shop drawings and sample submissions, reproductions of

original Contract Documents including all addenda, change orders, field orders, additional drawings issued after execution of the Agreement, Owner/Architect/Engineer's clarifications and interpretations of the Contract Documents, Progress Reports, as-built drawings, and other project related documents;

- (k) Keep a diary or log book, recording hours on the job site, weather conditions, data relative to questions of extras or deductions; list of visiting officials and representatives or manufacturers, fabricators, suppliers and distributors; daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures, and provide copies of same to Owner/Architect/Engineer;
 - (l) Record names, addresses and telephone numbers of all Contractors, Subcontractors and major suppliers of materials and equipment;
 - (m) Furnish Owner/Architect/Engineer periodic reports, as required, of progress of the Work and Contractor's compliance with the approved progress schedule and schedule of shop drawing submissions;
 - (n) Consult with Owner/Architect/Engineer in advance of scheduling major tests, inspections or start of important phases of the Work;
 - (o) Verify, during the course of the Work, that certificates, maintenance and operations manuals and other data required to be assembled and furnished are applicable to the items actually installed, and deliver same to Owner/Architect/Engineer for review prior to final Acceptance of the Work; and
 - (p) Cooperate with Owner in the administration of grants.
- (2) The Contractor shall provide personnel and equipment, or shall arrange for separate Subcontractors to provide each of the following as a Project Cost:
- a. Services of independent testing laboratories, and provide the necessary testing of materials to ensure conformance to contract requirements; and
 - b. Printing and distribution of all required bidding documents and shop drawings, including the sets required by Permitting Authority inspectors.
- DD. As-Built Drawings. The Contractor shall continuously review as-built drawings and mark up progress prints to provide as much accuracy as possible. Prior to, and as a requirement for authorizing final payment to the Contractor due hereunder, the Contractor shall provide to the Owner an original set of marked-up, as-built Project Plans and Specifications and an electronic format of those records showing the location and dimensions of the Project as constructed, which documents shall be certified as being correct by the Contractor and the Architect/Engineer. Final as-built drawings shall be signed and sealed by a registered Florida surveyor.

- EE. Progress Reports. The Contractor shall forward to the Owner, as soon as practicable after the first day of each month, a summary report of the progress of the various parts of the Work, to include those parts of the Work in fabrication and in the field, stating the existing status, estimated time of completion and cause of delay, if any. Together with the summary report, the Contractor shall submit any necessary revisions to the original schedule for the Owner's review and approval. In addition, more detailed schedules may be required by the Owner for daily traffic control.
- FF. Contractor's Warranty. The Contractor warrants to the Owner and Architect/Engineer that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements will be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect/Engineer, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- (1) Contractor shall use its best efforts and due diligence to ensure that during the warranty period, those entities or individuals who have provided direct warranties to the Owner as required by the Contract Documents perform all required warranty Work in a timely manner and at the sole cost and expense of such warranty providers. Any such cost or expense not paid by the warranty providers shall be paid by the Contractor, to include any costs and attorney's fees incurred in warranty-related litigation between Contractor and any Subcontractors.
 - (2) The Contractor shall secure guarantees and warranties of Subcontractors, equipment suppliers and materialmen, and assemble and deliver same to the Owner in a manner that will facilitate their maximum enforcement and assure their meaningful implementation. The Contractor shall collect and deliver to the Owner any specific written guaranties or warranties given by others as required by subcontracts.
 - (3) At the Owner's request, the Contractor shall conduct, jointly with the Owner and the Architect/Engineer, no more than two (2) warranty inspections within three (3) years after the Substantial Completion Date.
- GG. Apprentices. If Contractor employs apprentices, their performance of Work shall be governed by and shall comply with the provisions of Chapter 446, Florida Statutes.

- HH. Schedule of Values. Unit prices shall be established for this Agreement by the submission of a schedule of values within ten (10) days of receipt of the Notice to Proceed. The schedule shall include quantities and prices of items equaling the Contract Sum and will subdivide the Work into components in sufficient detail to serve as the basis for progress payments during construction. Such prices shall include an appropriate amount of overhead and profit applicable to each item of Work. Upon request of the County, the Contractor shall support the values with data which will substantiate their correctness.
- II. Other Contracts. The Owner reserves the right to let other contracts in connection with this Work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and execution of their work, and promptly connect and coordinate the Work with theirs.

ARTICLE III, COMPENSATION

3.1 Compensation

The Contract Sum constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in the Contract Sum.

- A. Adjustments. The Contract Sum may only be changed by Change Order or by a written amendment. Any claim for an increase or decrease in the Contract Sum shall be based on written notice delivered by the party making the claim to the other party. Notice of the amount of the claim with supporting data shall be delivered within fifteen (15) days from the beginning of such occurrence and shall be accompanied by claimant's written statement that the amount claimed covers all amounts to which the claimant is entitled as a result of the occurrence of said event. Failure to deliver a claim within the requisite 15-day period shall constitute a waiver of the right to pursue said claim.
- B. Valuation. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Sum shall be determined in one of the following ways (at Owner's discretion):
- (1) In the case of Unit Price Work, in accordance with Section 3.1.C, below; or
 - (2) By mutual acceptance of a lump sum; or
 - (3) On the basis of the cost of the Work, plus a negotiated Contractor's fee for overhead and profit. Contractor shall submit an itemized cost breakdown together with supporting data.
- C. Unit Price Work. The unit price of an item of Unit Price Work shall be subject to re-evaluation and adjustment pursuant to a requested Change Order under the following conditions:

- (1) If the total cost of a particular item of Unit Price Work amounts to 5% or more of the Contract Sum and the variation in the quantity of the particular item of Unit Price Work performed by Contractor differs by more than 15% from the estimated quantity of such item indicated in the Agreement; and
- (2) If there is no corresponding adjustment with respect to any other item of Work; and
 - i. If Contractor believes that it has incurred additional expense as a result thereof; or
 - ii. If Owner believes that the quantity variation entitles it to an adjustment in the unit price; or
 - iii. If the parties are unable to agree as to the effect of any such variations in the quantity of Unit Price Work performed.

3.2 Schedule of Compensation

All payments for services and material under the Contract Documents shall be made in accordance with the following provisions.

- A. Periodic Payments for Services. The Contractor shall be entitled to receive payment for Construction Services rendered pursuant to Section 2.4 in periodic payments which shall reflect a fair apportionment of cost and schedule of values of services furnished prior to payment, subject to the provisions of this Section.
- B. Payment for Materials and Equipment. In addition to the periodic payments authorized hereunder, payments may be made for material and equipment not incorporated in the Work but delivered and suitably stored at the Project Site, or another location, subject to prior approval and acceptance by the Owner on each occasion.
- C. Credit toward Contract Sum. All payments for Construction Services made hereunder shall be credited toward the payment of the Contract Sum as Contractor's sole compensation for the construction of the Project.

3.3 Invoice and Payment.

All payments for services and materials under the Contract Documents shall be invoiced and paid in accordance with the following provisions.

- A. Invoices. The Contractor shall submit to the Owner periodic invoices for payment, in a form acceptable to the Owner, which shall include a sworn statement certifying that, to the best of the Contractor's knowledge, information and belief, the construction has progressed to the point indicated, the quality and the Work covered by the invoice is in accord with the Project Plans and Specifications, and the Contractor is entitled to payment in the amount requested, along with the cost reports required pursuant to Article II, showing in detail all monies paid out,

Project Costs accumulated, or Project Cost incurred during the previous period. This data shall be attached to the invoice.

- B. Additional Information; Processing of Invoices. Should an invoiced amount appear to exceed the Work effort believed to be completed, the Owner may, prior to processing of the invoice for payment, require the Contractor to submit satisfactory evidence to support the invoice. All Progress Reports and invoices shall be delivered to the attention of the Owner's Project Representative. Invoices not properly prepared (mathematical errors, billing not reflecting actual Work done, no signature, etc.) shall be returned to the Contractor for correction.
- C. Architect/Engineer's Approval. Payment for Work completed shall be subject to the Architect/Engineer approving the payment requested by the Contractor and certifying the amount thereof that has been properly incurred and is then due and payable to the Contractor, and identifying with specificity any amount that has not been properly incurred and that should not be paid.
- D. Warrants of Contractor with Respect to Payments. The Contractor warrants that (1) upon payment of any retainage, materials and equipment covered by a partial payment request will pass to Owner either by incorporation in construction or upon receipt of payment by the Contractor, whichever occurs first; (2) Work, materials and equipment covered by previous partial payment requests shall be free and clear of liens, claims, security interests, or encumbrances; and (3) no Work, materials or equipment covered by a partial payment request which has been acquired by the Contractor or any other person performing Work at the Project Site, or furnishing materials or equipment for the Project, shall be subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or any other person.
- E. All Compensation Included. Contractor's compensation includes full payment for services set forth in the Contract Documents, including but not limited to overhead, profit, salaries or other compensation of Contractor's officers, partners and/or employees, general operating expenses incurred by Contractor and relating to this Project, including the cost of management, supervision and data processing staff, job office equipment and supplies, and other similar items.

ARTICLE IV, SUBCONTRACTORS

4.1 Subcontracts

At the Owner's request, the Contractor shall provide Owner's Project Representative with copies of all proposed and final subcontracts, including the general and supplementary conditions thereof.

- A. Subcontracts Generally. All subcontracts shall: (1) require each Subcontractor to be bound to Contractor to the same extent Contractor is bound to Owner by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the Subcontractor, (2i) provide for the assignment of

the subcontracts from Contractor to Owner at the election of Owner, upon termination of Contractor, (3) provide that Owner will be an additional indemnified party of the subcontract, (4) provide that Owner will be an additional insured on all insurance policies required to be provided by the Subcontractor, except workers' compensation, (5) assign all warranties directly to Owner, and (6) identify Owner as an intended third-party beneficiary of the subcontract.

(1) A Subcontractor is a person or entity who has a direct contract with Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

(2) A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

B. No Damages for Delay. Except when otherwise expressly agreed to by Owner in writing, all subcontracts shall provide:

"LIMITATION OF REMEDIES – NO DAMAGES FOR DELAY. The Subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Architect/Engineer or attributable to the Owner or Architect/Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim."

Each subcontract shall require that any claims by the Subcontractor for delay must be submitted to the Contractor within the time and in the manner in which the Contractor must submit such claims to the Owner, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

C. Subcontractual Relations. The Contractor shall require each Subcontractor to assume all the obligations and responsibilities which the Contractor owes the Owner pursuant to the Contract Documents, by the parties to the extent of the Work to be performed by the Subcontractor. Said obligations shall be made in writing and shall preserve and protect the rights of the Owner and Architect/Engineer, with respect to the Work to be performed by the Subcontractor, so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with its sub-subcontractors.

D. Insurance; Acts and Omissions. Insurance requirements for Subcontractors shall be no more stringent than those requirements imposed on the Contractor by the

Owner. The Contractor shall be responsible to the Owner for the acts and omissions of its employees, agents, Subcontractors, their agents and employees, and all other persons performing any of the Work or supplying materials under a contract to the Contractor.

4.2 Relationship and Responsibilities

Except as specifically set forth herein with respect to direct materials acquisitions by Owner, nothing contained in the Contract Documents or in any Contract Document does or shall create any contractual relation between the Owner or Architect/Engineer and any Subcontractor. Specifically, the Contractor is not acting as an agent of the Owner with respect to any Subcontractor. The utilization of any Subcontractor shall not relieve Contractor from any liability or responsibility to Owner, or obligate Owner to the payment of any compensation to the Subcontractor or additional compensation to the Contractor.

4.3 Payments to Subcontractors; Monthly Statements

The Contractor shall be responsible for paying all Subcontractors from the payments made by the Owner to Contractor pursuant to Article III, subject to the following provisions:

- A. Payment. The Contractor shall, no later than ten (10) days after receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's Work, pay to each Subcontractor the amount to which the Subcontractor is entitled in accordance with the terms of the Contractor's contract with such Subcontractor. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-Subcontractors in a similar manner. After receipt of payment from Owner, if the need should arise to withhold payments to Subcontractors for any reason, as solely determined by Contractor, the Contractor shall promptly restore such monies to the Owner, adjusting subsequent pay requests and Project bookkeeping as required.
- B. Final Payment of Subcontractors. The final payment of retainage to Subcontractors shall not be made until the Project has been inspected by the Architect/Engineer or other person designated by the Owner for that purpose, and until both the Architect/Engineer and the Contractor have issued a written certificate that the Project has been constructed in accordance with the Project Plans and Specifications and approved Change Orders. Before issuance of final payment to any Subcontractor without any retainage, the Subcontractor shall submit satisfactory evidence that all payrolls, material bills, and other indebtedness connected with the Project have been paid or otherwise satisfied, warranty information is complete, as-built markups have been submitted, and instruction for the Owner's operating and maintenance personnel is complete. Final payment may be made to certain select Subcontractors whose Work is satisfactorily completed prior to the completion of the Project, but only upon approval of the Owner's Project Representative.

4.4 Responsibility for Subcontractors

As provided in Section 2.4.BB, Contractor shall be fully responsible to Owner for all acts and omissions of the Subcontractors, suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect Contract with Contractor just as Contractor is responsible for Contractor's own acts and omissions.

4.5 Contingent Assignment of Subcontracts

Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that:

- (1) Assignment is effective only after termination of the Contract by the Owner for cause pursuant to Article XIV and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- (2) Assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Agreement.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract. Upon such assignment, if the Work has been suspended for more than thirty (30) days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension. Upon such assignment to the Owner, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE V, CHANGES IN WORK

5.1 General

Changes in the Work may be accomplished after execution of the Agreement, and without invalidating the Agreement, by Change Order, Work Directive Change or order for a minor change in the Work, subject to the limitations stated in this Article V and elsewhere in the Contract Documents. A Change Order shall be based upon agreement among the Owner, Contractor and Architect/Engineer; a Work Directive Change requires agreement by the Owner and Architect/Engineer and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect/Engineer alone. Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Work Directive Change or order for a minor change in the Work.

5.2 Minor Changes in the Work

The Owner or Architect/Engineer shall have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such change will be

effected by written order signed by the Architect/Engineer and shall be binding on the Owner and Contractor. The Contractor shall abide by and perform such minor changes. Such changes shall be effected by a Field Directive or a Work Directive Change. Documentation of changes shall be determined by the Construction Team, and displayed monthly in the Progress Reports. Because such changes shall not affect the Contract Sum to be paid to the Contractor, they shall not require a Change Order pursuant to Section 5.6.

5.3 Emergencies

In any emergency affecting the safety of persons or property, the Contractor shall act at its discretion to prevent threatened damage, injury, or loss. Any increase in the Contract Sum or extension of time claimed by the Contractor because of emergency Work shall be determined as provided in Section 5.6. However, whenever practicable, the Contractor shall obtain verbal concurrence of the Owner's Project Representative and Architect/Engineer where the act will or may affect the Contract Sum or Contract Time.

5.4 Concealed Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect/Engineer before conditions are disturbed and in no event later than ten (10) days after first observance of the conditions. The Architect/Engineer will promptly investigate such conditions and, if the Architect/Engineer determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect/Engineer determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect/Engineer shall promptly notify the Owner and Contractor in writing, stating the reasons. If the Contractor disputes the Architect/Engineer's determination or recommendation, the Contractor may proceed as provided in Article VIII. If the Owner disputes the Architect/Engineer's determination or recommendation, the Owner may appeal directly to the Purchasing Official and shall thereafter follow the process set forth in Section 8.5.

5.5 Hazardous Materials

In the event the Contractor encounters on the Project Site material reasonably believed to be hazardous, petroleum or petroleum related products, or other hazardous or toxic substances, except as provided in Section 2.4.U, the Contractor shall immediately stop Work in the area affected and report the condition to the Owner and the Architect/Engineer in writing. The Work in the affected area shall not thereafter be resumed except by Change Order or written amendment, if in fact the material or substance has not been rendered harmless. The Work in the affected area shall be resumed when the Project Site has been rendered harmless, in accordance with the final determination by the Architect/Engineer or other appropriate professional employed by Owner. The Contractor shall not be required to perform without its consent any Work

relating to hazardous materials, petroleum or petroleum related products, or other hazardous or toxic substances. In the event the Contractor encounters on the Project Site materials believed in good faith to be hazardous or contaminated material, and the presence of such hazardous or contaminated material was not known and planned for at the time the Contractor submitted its Bid (or Guaranteed Maximum Price proposal), and it is necessary for the Contractor to stop Work in the area affected and delays Work for more than a seven (7) day period, adjustments to the Contract Sum and/or Contract Time shall be made in accordance with this Article V.

5.6 Change Orders; Adjustments to Contract Sum

Change Orders Generally

- A. The increase or decrease in the Contract Sum resulting from a change authorized pursuant to the Contract Documents shall be determined:
- (1) By mutual acceptance of a lump sum amount properly itemized and supported by sufficient substantiating data, to permit evaluation by the Architect/Engineer and Owner; or
 - (2) By unit prices stated in the Agreement or subsequently agreed upon; or
 - (3) By any other method mutually agreeable to Owner and Contractor.

If Owner and Contractor are unable to agree upon increases or decreases in the Contract Sum and the Architect/Engineer certifies that the work needs to be commenced prior to any such agreement, the Contractor, provided it receives a written Change Order signed by or on behalf of the Owner, shall promptly proceed with the Work involved. The cost of such Work shall then be determined on the basis of the reasonable expenditures of those performing the Work attributed to the change. However, in the event a Change Order is issued under these conditions, the Owner, through the Architect/Engineer, will establish an estimated cost of the Work and the Contractor shall not perform any Work whose cost exceeds that estimated without prior written approval by the Owner. In such case, the Contractor shall keep and present in such form as the Owner may prescribe an itemized accounting, together with appropriate supporting data of the increase in overall costs of the Project. The amount of any decrease in the Contract Sum to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in costs will be the amount of the actual net decrease.

5.7 Owner-Initiated Changes

Without invalidating the Agreement and without notice to any Surety, Owner may, at any time, order additions, deletions or revisions in the Work. These will be authorized by a written amendment, a Field Directive, a Change Order, or a Work Directive Change, as the case may be. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided). A Work Directive Change may not change the Contract Sum or the Contract Time; but is evidence that

the parties expect that the change directed or documented by a Work Directive Change will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Sum or Contract Time.

5.8 Unauthorized Work

Contractor shall not be entitled to an increase in the Contract Sum or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents.

5.9 Defective Work

Owner and Contractor shall execute appropriate Change Orders (or written amendments) covering changes in the Work which are ordered by Owner, or which may be required because of acceptance of defective Work, without adjustment to the Contract Sum.

5.10 Estimates for Changes

At any time Architect/Engineer may request a quotation from Contractor for a proposed change in the Work. Within twenty-one (21) calendar days after receipt, Contractor shall submit a written and detailed proposal for an increase or decrease in the Contract Sum or Contract Time for the proposed change. Architect/Engineer shall have twenty-one (21) calendar days after receipt of the detailed proposal to respond in writing. The proposal shall include an itemized estimate of all costs and time for performance that will result directly or indirectly from the proposed change. Unless otherwise directed, itemized estimates shall be in sufficient detail to reasonably permit an analysis by Architect/Engineer of all material, labor, equipment, subcontracts, overhead costs and fees, and shall cover all Work involved in the change, whether such Work was deleted, added, changed or impacted. Notwithstanding the request for quotation, Contractor shall carry on the Work and maintain the progress schedule. Delays in the submittal of the written and detailed proposal will be considered non-prejudicial.

5.11 Form of Proposed Changes

The form of all submittals, notices, Change Orders and other documents permitted or required to be used or transmitted under the Contract Documents shall be determined by the Owner. Standard Owner forms shall be utilized.

5.12. Changes to Contract Time

The Contract Time may only be changed pursuant to a Change Order or a written amendment to the Contract Documents. Any claim for an extension or shortening of the Contract Time shall be based on written notice delivered by the party making the claim to the other party. Notice of the extent of the claim with supporting data shall be delivered within fifteen (15) days from detection or beginning of such occurrence and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled to because of the occurrence of said event. The Contract time will be extended in an amount equal to time lost due to delays beyond the control of Contractor. Such delays shall include, but not be limited to, acts or neglect by Owner or others performing

additional Work; or to fires, floods, epidemics, abnormal weather conditions or acts of God. Failure to deliver a written notice of claim within the requisite 15-day period shall constitute a waiver of the right to pursue said claim.

ARTICLE VI, ROLE OF ARCHITECT/ENGINEER

6.1 General

- A. Retaining. The Owner shall retain an Architect/Engineer (whether an individual or an entity) lawfully licensed to practice in Florida. That person or entity is identified as the Architect/Engineer in the Agreement and is referred to throughout the Contract Documents as if singular in number.
- B. Duties. Duties, responsibilities and limitations of authority of the Architect/Engineer as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner and Architect/Engineer. Consent shall not be unreasonably withheld.
- C. Termination. If the employment of the Architect/Engineer is terminated, the Owner shall employ a successor Architect/Engineer as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect/Engineer.

6.2 Administration

The Architect/Engineer will provide administration of the Agreement as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect/Engineer approves the final Application for Payment. The Architect/Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

- A. Site Visits. The Architect/Engineer will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work complete, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. Unless specifically instructed by Owner, the Architect/Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect/Engineer will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents
- B. Reporting. Based on the site visits, the Architect/Engineer will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The

Architect/Engineer will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect/Engineer will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

6.3 Interpretation of Project Plans and Specifications

The Architect/Engineer will be the interpreter of the requirements of the Project Plans and Specifications. Upon receipt of comments or objections by Contractor or Owner, the Architect/Engineer will make decisions on all claims, disputes, or other matters pertaining to the interpretation of the Project Plans and Specifications.

6.4 Rejection of Non-Conforming Work

Upon consultation with Owner, the Architect/Engineer shall have the authority to reject Work which does not conform to the Project Plans and Specifications.

6.5 Correction of Work

The Contractor shall promptly correct all Work rejected by the Architect/Engineer for being defective or as failing to conform to the Project Plans and Specifications, whether observed before or after the Substantial Completion Date and whether or not fabricated, installed, or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for Architect/Engineer's additional services made necessary thereby.

6.6 Timely Performance of Architect/Engineer

The Contractor shall identify which requests for information or response from the Architect/Engineer have the greatest urgency and those items which require prioritizing in response by the Architect/Engineer. The Contractor shall also identify the preferred time period for response and shall request a response time which is reasonably and demonstrably related to the needs of the Project and Contractor. If Architect/Engineer claims that Contractor's expectations for a response are unreasonable, Owner shall require Architect/Engineer to communicate such claim to Contractor in writing together with the specific time necessary to respond and the date upon which such response will be made. If Contractor believes that Architect/Engineer is not providing timely services or responses, Contractor shall notify Owner of same in writing not less than two (2) weeks before Contractor believes performance or response time from Architect/Engineer is required without risk of delaying the Project.

ARTICLE VII, OWNER'S RIGHTS AND RESPONSIBILITIES

7.1 Project Site; Title

The Owner shall provide the lands upon which the Work under the Contract Documents is to be done, except that the Contractor shall provide all necessary additional land required for the erection of temporary construction facilities and storage of his materials, together with right of access to same. The Owner hereby represents to the Contractor that it currently has and will maintain up through and including the Substantial

Completion Date, good title to all of the real property constituting the Project Site. Owner agrees to resolve, at its expense, any disputes relating to the ownership and use of the Project Site which might arise during construction.

7.2 Project Plans and Specifications; Architect/Engineer

The parties hereto acknowledge and agree that Owner has previously entered into an agreement with Architect/Engineer. Pursuant to the terms of such agreement, the Architect/Engineer, as an agent and representative of Owner, is responsible for the preparation of Project Plans and Specifications which consist of drawings, specifications, and other documents setting forth in detail the requirements for the construction of the Project. All such Project Plans and Specifications shall be provided either by Owner or the Architect/Engineer, and Contractor shall be under no obligation to provide same and shall be entitled to rely upon the accuracy and completeness of the Project Plans and Specifications provided by the Architect/Engineer and all preliminary drawings prepared in connection therewith. The Contractor will be furnished a reproducible set of all drawings and specifications reasonably necessary for the performance of Contractor's services hereunder and otherwise ready for printing. The Contractor shall be notified of any written modification in the agreement between Owner and Architect/Engineer.

7.3 Surveys; Soil Tests and Other Project Site Information

Owner shall be responsible for providing a legal description and certified land survey of the Project Site in a form and content and with such specificity as may be required by the Architect/Engineer and Contractor to perform their services. To the extent deemed necessary by Owner and Architect/Engineer, and solely at Owner's expense, Owner may engage the services of a geotechnical consultant to perform test borings and other underground soils testing as may be deemed necessary by the Architect/Engineer or the Contractor. Contractor shall not be obligated to provide such surveys or soil tests and shall be entitled to rely upon the accuracy and completeness of the information provided; subject, however, to the provisions of Section 2.4.S hereof. Owner shall provide Contractor, as soon as reasonably possible following the execution of the Contract Documents, all surveys or other survey information in its possession describing the physical characteristics of the Project Site, together with soils reports, subsurface investigations, utility locations, deed restrictions, easements, and legal descriptions then in its possession or control. Upon receipt of all surveys, soils tests, and other Project Site information, Contractor shall promptly advise Owner of any inadequacies in such information and of the need for any additional surveys, soils or subsoil tests. In performing this Work, Contractor shall use the standard of care of experienced contractors and will use its best efforts timely to identify all problems or omissions. Owner shall not be responsible for any delay or damages to the Contractor for any visible or disclosed site conditions or disclosed deficiencies in the Project Site which should have been identified by Contractor and corrected by Owner prior to the execution of the Contract Documents.

7.4 Information; Communication; Coordination

The Owner's Project Representative shall examine any documents or requests for information submitted by the Contractor and shall advise Contractor of Owner's decisions pertaining thereto within a reasonable period of time to avoid unreasonable

delay in the progress of the Contractor's services. Contractor shall indicate if any such documents or requests warrant priority consideration. However, decisions pertaining to approval of the Project Schedule as it relates to the date of Substantial Completion, the Project Cost, Contractor's compensation, approving or changing the Contract Sum shall only be effective when approved by Owner in the form of a written Change Order or amendment to the Contract Documents. Owner reserves the right to designate a different Owner's Project Representative provided Contractor is notified in writing of any such change. Owner and Architect/Engineer may communicate with Subcontractors, materialmen, laborers, or suppliers engaged to perform services on the Project, but only for informational purposes. Neither the Owner nor the Architect/Engineer shall attempt to direct the Work of or otherwise interfere with any Subcontractor, materialman, laborer, or supplier, or otherwise interfere with the Work of the Contractor. Owner shall furnish the data required of Owner under the Contract Documents promptly.

7.5 Governmental Body

The Contractor recognizes that the Owner is a governmental body with certain procedural requirements to be satisfied. The Contractor has and will make reasonable allowance in its performance of services for such additional time as may be required for approvals and decisions by the Owner and any other necessary government agency.

7.6 Pre-Completion Acceptance

The Owner shall have the right to take possession of and use any completed portions of the Work, although the time for completing the entire Work or such portions may not have expired, but such taking possession and use shall not be deemed an acceptance of any Work not completed in accordance with the Contract Documents.

7.7 Ownership and Use of Drawings, Specifications and Other Instruments of Service

1. The Architect/Engineer and the Architect/Engineer's consultants shall be deemed the authors and owners of their respective instruments of service, including the Project Plans and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the instruments of service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect/Engineer's or Architect/Engineer's consultants' reserved rights.
2. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the drawings and specifications provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Project Plans and Specifications or other instruments of service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the drawings or specifications on other projects or for additions to this Project outside the scope of the Work without the specific

written consent of the Owner, Architect/Engineer and the Architect/Engineer's consultants.

7.8 Owner's Project Representative

Owner's Project Representative is Owner's Agent, who will act as directed by and under the supervision of the Owner, and who will confer with Owner/Architect/Engineer regarding his actions. The Owner's Project Representative's dealings in matters pertaining to the on-site Work shall, in general, be only with the Owner/Architect/Engineer and Contractor and dealings with Subcontractors shall only be through or with the full knowledge of Contractor.

- A. Responsibilities. Except as otherwise instructed in writing by Owner, the Owner's Project Representative will:
- (1) Attend preconstruction conferences; arrange a schedule of progress meetings and other job conferences as required in consultation with Owner/Architect/Engineer and notify those expected to attend in advance; and attend meetings and maintain and circulate copies of minutes thereof;
 - (2) Serve as Owner/Architect/Engineer's liaison with Contractor, working principally through Contractor's superintendent, to assist in understanding the intent of the Contract Documents. As requested by Owner/Architect/Engineer, assist in obtaining additional details or information when required at the job site for proper execution of the Work;
 - (3) Report to Owner/Architect/Engineer whenever he believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents;
 - (4) Accompany visiting inspectors representing public or other agencies having jurisdiction over the project; record the outcome of these inspections and report to Owner/Architect/Engineer;
 - (5) Review applications for payment with Contractor for compliance with the established procedure for their submission and forward them with recommendations to Owner/Architect/Engineer; and
 - (6) Perform those duties as set forth elsewhere within the Contract Documents.
- B. Limitations. Except upon written instructions of Owner, Owner's Project Representative shall not:
- (1) Authorize any deviation from the Contract Documents or approve any substitute materials or equipment;
 - (2) Exceed limitations on Owner/Architect/Engineer's authority as set forth in the Contract Documents;

- (3) Undertake any of the responsibilities of Contractor, Subcontractors or Contractor's superintendent, or expedite the Work;
- (4) Advise on or issue directions relative to any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in the Contract Documents;
- (5) Advise on or issue directions as to safety precautions and programs in connection with the Work;
- (6) Authorize Owner to occupy the project in whole or in part; or
- (7) Participate in specialized field or laboratory tests.

ARTICLE VIII, RESOLUTION OF DISAGREEMENTS; CLAIMS FOR COMPENSATION

8.1 Owner to Decide Disputes

The Owner shall reasonably decide all questions and disputes (with the exception of matters pertaining to the interpretation of the Project Plans and Specifications which shall be resolved by the Architect/Engineer pursuant to Section 6.3) that may arise in the execution and fulfillment of the services provided for under the Contract Documents, in accordance with the Procurement Ordinance.

8.2 Finality

The decision of the Owner upon all claims, questions, disputes and conflicts shall be final and conclusive, and shall be binding upon all parties to the Contract Documents, subject to judicial review as provided in Section 8.5 below.

8.3 No Damages for Delay

If at any time Contractor is delayed in the performance of Contractor's responsibilities under the Contract Documents as the result of a default or failure to perform in a timely manner by Owner or Owner's agents or employees, Contractor shall not be entitled to any damages except for compensation specifically authorized in Article III. Contractor's sole remedy will be a right to extend the time for performance. Nothing herein shall preclude Contractor from any available remedy against any responsible party other than Owner. Contractor shall be responsible for liquidated damages for delay if otherwise provided for in the Contract Documents.

8.4 Permitted Claims Procedure

Where authorized or permitted under the Contract Documents, all claims for additional compensation by Contractor, extensions of time affecting the Substantial Completion Date, for payment by the Owner of costs, damages or losses due to casualty, Force Majeure, Project Site conditions or otherwise, shall be governed by the following:

- (1) All claims must be submitted as a request for Change Order in the manner as provided in Article V.

- (2) The Contractor must submit a notice of claim to Owner's Project Representative and to the Architect/Engineer within fifteen (15) days of the beginning of such occurrence. Failure to submit a claim within the requisite 15-day period shall constitute a waiver of the right to pursue said claim.
- (3) Within twenty (20) days of submitting its notice of claim, the Contractor shall submit to the Owner's Project Representative its request for Change Order, which shall include a written statement of all details of the claim, including a description of the Work affected.
- (4) After receipt of a request for Change Order, the Owner's Project Representative, in consultation with the Architect/Engineer, shall deliver to the Contractor, within twenty (20) days after receipt of request, its written response to the claim.
- (5) In the event the Owner and Contractor are unable to agree on the terms of a Change Order, the Owner shall have the option to instruct the Contractor to proceed with the Work. In that event, the Owner shall pay for those parts of the Work, the scope and price of which are not in dispute. The balance of the disputed items in the order to proceed will be resolved after completion of the Work, based upon completed actual cost.
- (6) The rendering of a decision by Owner with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment) will be a condition precedent to any exercise by Owner or Contractor of such right or remedies as either may otherwise have under the Contract Documents or by laws or regulations in respect of any such claim, dispute or other matter.

8.5 Contract Claims and Disputes

After completion of the process set forth in Section 8.4 above, any unresolved dispute under this Agreement shall be decided by the Purchasing Official in accordance with Section 2-26-63 of the Manatee County Code of Laws, subject to an administrative hearing process as provided in Section 2-26-64. The decision of the hearing officer in accordance with Section 2-26-64 of the Manatee County Code of Laws shall be the final and conclusive County decision subject to exclusive judicial review in circuit court by a petition for certiorari.

8.6 Claims for Consequential Damages

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Agreement. This mutual waiver includes:

- (1) damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons,

unless any of such damages or losses are covered by insurance placed by the Contractor; and

- (2) damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article XIV. Nothing contained in this Section 8.6 shall be deemed to preclude assessment of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

ARTICLE IX, INDEMNITY

9.1 Indemnity

- A. Indemnification Generally. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect/Engineer, Architect/Engineer's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 9.1.
- B. Claims by Employees. In claims against any person or entity indemnified under this Section 9.1 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 9.1.A. shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

9.2 Duty to Defend

The Contractor shall defend the Owner in any action, lawsuit mediation or arbitration arising from the alleged negligence, recklessness or intentionally wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of the Work. So long as Contractor, through its own counsel, performs its obligation to defend the Owner pursuant to this Section, Contractor shall not be required to pay the Owner's costs associated with the Owner's participation in the defense.

ARTICLE X, ACCOUNTING RECORDS; OWNERSHIP OF DOCUMENTS

10.1 Accounting Records

Records of expenses pertaining to all services performed shall be kept in accordance with generally accepted accounting principles and procedures.

10.2 Inspection and Audit

The Contractor's records shall be open to inspection and subject to examination, audit, and/or reproduction during normal working hours by the Owner's agent or authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by the Contractor or any of its payees during the performance of the Work. These records shall include, but not be limited to, accounting records, written policies and procedures, Subcontractor files (including proposals of successful and unsuccessful bidders), original estimates, estimating worksheets, correspondence, Change Order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to the Contract Documents. They shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with the Contract Documents. For such audits, inspections, examinations and evaluations, the Owner's agent or authorized representative shall have access to said records from the effective date of the Contract Documents, for the duration of Work, and until three (3) years after the date of final payment by the Owner to the Contractor pursuant to the Contract Documents.

10.3 Access

The Owner's agent or authorized representative shall have access to the Contractor's facilities and all necessary records to conduct audits in compliance with this Article. The Owner's agent or authorized representative shall give the Contractor reasonable advance notice of intended inspections, examinations, and/or audits.

10.4 Ownership of Document

Upon obtainment of Substantial Completion or termination of the Agreement, all records, documents, tracings, plans, specifications, maps, evaluations, reports, transcripts and other technical data, other than working papers, prepared or developed by the Contractor shall be delivered to and become the property of the Owner. The Contractor at its own expense may retain copies for its files and internal use.

ARTICLE XI, PUBLIC CONTRACT LAWS

11.1 Equal Opportunity Employment

- A. Employment. The Contractor shall not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, disability or age, and will take affirmative action to ensure that all employees and applicants are afforded equal employment opportunities without discrimination because of race, creed, sex, color, national origin, disability or age. Such action

will be taken with reference to, but shall not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of training or retraining, including apprenticeship and on-the-job training.

- B. Participation. No person shall, on the grounds of race, creed, sex, color, national origin, disability or age, be excluded from participation in, be denied the proceeds of, or be subject to discrimination in the performance of the Agreement.

11.2 Immigration Reform and Control Act of 1986

Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, located at 8 U.S.C. Section 1324, et seq., and regulations relating thereto. Failure to comply with the above statutory provisions shall be considered a material breach and shall be grounds for immediate termination of this Agreement.

11.3 No Conflict of Interest

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement.

- A. No Interest in Business Activity. By accepting award of this Agreement, the Contractor, which shall include its directors, officers and employees, represents that it presently has no interest in and shall acquire no interest in any business or activity which would conflict in any manner with the performance of services required hereunder, including without limitation as described in the Contractor's own professional ethical requirements. An interest in a business or activity which shall be deemed a conflict includes but is not limited to direct financial interest in any of the material and equipment manufacturers, suppliers, distributors, or contractors who will be eligible to supply material and equipment for the Project for which the Contractor is furnishing its services required hereunder.
- B. No Appearance of Conflict. The Contractor shall not knowingly engage in any contractual or professional obligations that create an appearance of a conflict of interest with respect to the services provided pursuant to the Agreement. The Contractor has provided the Affidavit of No Conflict, incorporated into the Contract Documents as Exhibit "C", as a material inducement for Owner entering the Agreement. If, in the sole discretion of the County Administrator or designee, a conflict of interest is deemed to exist or arise during the term of this Agreement, the County Administrator or designee may cancel this Agreement, effective upon the date so stated in a written notice of cancellation, without penalty to the Owner.

11.4 Truth in Negotiations

By execution of the Contract Documents, the Contractor certifies to truth-in-negotiations and that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Further, the original Contract Sum and any additions thereto shall be adjusted to exclude any significant sums where the Owner determines the Contract Sum was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. Such adjustments must be made within one (1) year after final payment to the Contractor.

11.5 Public Entity Crimes

The Contractor is directed to the Florida Public Entity Crimes Act, Section 287.133, Florida Statutes, specifically section 2(a), and the Owner's requirement that the Contractor comply with it in all respects prior to and during the term of the Agreement.

ARTICLE XII, FORCE MAJEURE, FIRE OR OTHER CASUALTY

12.1 Force Majeure.

- A. Unavoidable Delays. Delays in any performance by any party contemplated or required hereunder due to fire, flood, sinkhole, earthquake or hurricane, acts of God, unavailability of materials, equipment or fuel, war, declaration of hostilities, revolt, civil strife, altercation or commotion, strike, labor dispute, or epidemic, archaeological excavation, lack of or failure of transportation facilities, or any law, order, proclamation, regulation, or ordinance of any government or any subdivision thereof, or for any other similar cause to those enumerated, beyond the reasonable control and which with due diligence could not have been reasonably anticipated, shall be deemed to be events of Force Majeure and any such delays shall be excused. In the event such party is delayed in the performance of any Work or obligation pursuant to the Contract Documents for any of the events of Force Majeure stated in this Section 12.1, the date for performance required or contemplated by the Contract Documents shall be extended by the number of calendar days such party is actually delayed.
- B. Concurrent Contractor Delays. If a delay is caused for any reason provided in Section 12.1.A. and during the same time period a delay is caused by Contractor, the date for performance shall be extended as provided in 12.1.A. but only to the extent the time is or was concurrent.
- C. Notice; Mitigation. The party seeking excuse for nonperformance based on Force Majeure shall give written notice to the Owner, if with respect to the Contractor, or to the Contractor if with respect to the Owner, specifying its actual or anticipated duration. Each party seeking excuse from nonperformance based on Force Majeure shall use its best efforts to rectify any condition causing a delay and will cooperate with the other party, except that neither party shall be obligated to incur any unreasonable additional costs and expenses to overcome any loss of time that has resulted.

12.2 Casualty; Actions by Owner and Contractor

During the construction period, if the Project or any part thereof shall have been damaged or destroyed, in whole or in part, the Contractor shall promptly make proof of loss; and Owner and Contractor shall proceed promptly to collect, or cause to be collected, all valid claims which may have arisen against insurers or others based upon such damage or destruction. The Contractor shall diligently assess the damages or destruction and shall prepare an estimate of the cost, expenses, and other charges, including normal and ordinary compensation to the Contractor, necessary for reconstruction of the Project substantially in accordance with the Project Plans and Specifications. Within fifteen (15) days following satisfaction of the express conditions described in subsections (1), (2) and (3) below, the Contractor covenants and agrees diligently to commence reconstruction and to complete the reconstruction or repair of any loss or damage by fire or other casualty to the Project to substantially the same size, floor area, cubic content, and general appearance as prior to such loss or damage:

- (1) Receipt by the Owner or the trustee of the proceeds derived from collection of all valid claims against insurers or others based upon such damage or destruction, and receipt of other sums from any source such that the funds necessary to pay the Project Cost and any additions to the Project Cost necessitated for repair or reconstruction are available;
- (2) Written agreement executed by the Contractor and the Owner, by amendment to the Contract Documents or otherwise, authorizing and approving the repair or reconstruction and any additions to the Project Cost necessitated thereby, including any required adjustment to the Contract Sum; and
- (3) Final approval by the Owner of the Project Plans and Specifications for such repair or reconstruction and issuance of any required building permit.

12.3 Approval of Plans and Specifications

The Owner agrees to approve the plans and specifications for such reconstruction or repair if the reconstruction or repair contemplated by such plans and specifications is economically feasible, and will restore the Project, or the damaged portion thereof, to substantially the same condition as prior to such loss or damage, and such plans and specifications conform to the applicable laws, ordinances, codes, and regulations. The Owner agrees that all proceeds of any applicable insurance or other proceeds received by the Owner or the Contractor as a result of such loss or damage shall be used for payment of the costs, expenses, and other charges of the reconstruction or repair of the Project.

12.4 Notice of Loss or Damage

The Contractor shall promptly give the Owner written notice of any significant damage or destruction to the Project, defined as loss or damage which it is contemplated by Contractor will increase the Contract Sum or extend the Substantial Completion Date, stating the date on which such damage or destruction occurred, the then expectations of Contractor as to the effect of such damage or destruction on the use of the Project,

and the then proposed schedule, if any, for repair or reconstruction of the Project. Loss or damage which the Contractor determines will not affect the Contract Sum or Substantial Completion Date will be reported to Owner and Architect/Engineer immediately, and associated corrective actions will be undertaken without delay.

ARTICLE XIII, REPRESENTATIONS, WARRANTIES AND COVENANTS

13.1 Representations and Warranties of Contractor

The Contractor represents and warrants to the Owner each of the following.

- A. The Contractor is a construction company, organized under the laws of the State of North Carolina, authorized to transact business in the State of Florida, with David A. Strickland as the primary qualifying agent. Contractor has all requisite power and authority to carry on its business as now conducted, to own or hold its properties, and to enter into and perform its obligations hereunder and under each instrument to which it is or will be a party, and is in good standing in the State of Florida.
- B. Each Contract Document to which the Contractor is or will be a party constitutes, or when entered into will constitute, a legal, valid, and binding obligation of the Contractor enforceable against the Contractor in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.
- C. There are no pending or, to the knowledge of the Contractor, threatened actions or proceedings before any court or administrative agency, within or without the State of Florida, against the Contractor or any partner, officer, or agent of the Contractor which question the validity of any document contemplated hereunder, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder, or materially adversely affect the financial condition of the Contractor.
- D. The Contractor has filed or caused to be filed all federal, state, local, or foreign tax returns, if any, which were required to be filed by the Contractor, and has paid, or caused to be paid, all taxes shown to be due and payable on such returns or on any assessments levied against the Contractor.
- E. Neither Contractor nor any agent or person employed or retained by Contractor has acted fraudulently or in bad faith or in violation of any statute or law in the procurement of this Agreement.
- F. The Contractor shall timely fulfill or cause to be fulfilled all of the terms and conditions expressed herein which are within the control of the Contractor or which are the responsibility of the Contractor to fulfill. The Contractor shall be solely responsible for the means and methods of construction.

- G. It is recognized that neither the Architect/Engineer, the Contractor, nor the Owner has control over the cost of labor, materials, or equipment, over a Subcontractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions.
- H. During the term of the Contract Documents, and the period of time that the obligations of the Contractor under the Contract Documents shall be in effect, the Contractor shall cause to occur and to continue to be in effect those instruments, documents, certificates, and events contemplated by the Contract Documents that are applicable to, and the responsibility of, the Contractor.
- I. The Contractor shall assist and cooperate with the Owner and shall accomplish the construction of the Project in accordance with the Contract Documents and the Project Plans and Specifications, and will not knowingly violate any laws, ordinances, rules, regulations, or orders that are or will be applicable thereto.
- J. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective, and that Owner, representatives of Owner, and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. Contractor shall give Architect/Engineer timely notice of readiness of the Work for all required approvals and shall assume full responsibility, including costs, in obtaining required tests, inspections, and approval certifications and/or acceptance, unless otherwise stated by Owner.
- K. If any Work (including Work of others) that is to be inspected, tested, or approved is covered without written concurrence of Architect/Engineer, it must, if requested by Architect/Engineer, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given Architect/Engineer timely notice of Contractor's intention to cover the same and Architect/Engineer has not acted with reasonable promptness in response to such notice. Neither observations by Architect/Engineer nor inspections, tests, or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.
- L. If the Work is defective, or Contractor fails to supply sufficient skilled workers, or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, Owner may order Contractor to stop the Work, or any portion thereof and terminate payments to the Contractor until the cause for such order has been eliminated. Contractor shall bear all direct, indirect and consequential costs for satisfactory reconstruction or removal and replacement with non-defective Work, including, but not limited to fees and charges of Architect/Engineers, attorneys and other professionals and any additional expenses experienced by Owner due to delays to other Contractors performing additional Work and an appropriate deductive change order shall be issued. Contractor shall further bear the responsibility for maintaining the schedule and shall not be entitled to an extension of the Contract Time or the recovery of delay damages due to correcting or removing defective Work.

- M. If Contractor fails within seven (7) days after written notice to correct defective Work, or fails to perform the Work in accordance with the Contract Documents, or fails to comply with any other provision of the Contract Documents, Owner may correct and remedy any such deficiency to the extent necessary to complete corrective and remedial action. Owner may temporarily exclude Contractor from all or part of the site, temporarily take possession of all or part of the Work, Contractor's tools, construction equipment and machinery at the site or for which Owner has paid Contractor but which are stored elsewhere, all for such duration as is reasonably necessary to correct the deficiency. All direct and indirect costs of Owner in exercising such rights and remedies will be charged against Contractor in an amount approved as to reasonableness by Architect/Engineer and a Change Order will be issued incorporating the necessary revisions.
- N. If within three (3) years after the Substantial Completion Date or such longer period of time as may be prescribed by laws or regulations or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions, either correct such defective Work or if it has been rejected by Owner, remove it from the site and replace it with non-defective Work. If Contractor does not promptly comply with the terms of such instruction, Owner may have the defective Work corrected/removed and all direct, indirect and consequential costs of such removal and replacement will be paid by Contractor. Failing payment by the Contractor and notwithstanding any other provisions of the Contract Documents to the contrary, Owner shall have the right to bring a direct action in the Circuit Court to recover such costs.

13.2 Representations of the Owner

To the extent permitted by law, the Owner represents to the Contractor that each of the following statements is presently true and accurate:

- A. The Owner is a validly existing political subdivision of the State of Florida
- B. The Owner has all requisite corporate or governmental power and authority to carry on its business as now conducted and to perform its obligations under the Contract Documents and each Contract Document contemplated hereunder to which it is or will be a party.
- C. The Contract Documents and each Contract Document contemplated hereby to which the Owner is or will be a party has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by, the Owner, and neither the execution and delivery thereof nor compliance with the terms and provisions thereof or hereof: (a) requires the approval and consent of any other person or party, except such as have been duly obtained or as are specifically noted herein; (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Owner; or (c) contravenes or results in any breach of, default under, or result in the creation of any lien or encumbrance upon the Owner under any indenture, mortgage,

deed of trust, bank loan, or credit agreement, the charter, ordinances, resolutions, or any other agreement or instrument to which the Owner is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the Owner outstanding on the date of the Contract Documents.

- D. The Contract Documents and each document contemplated hereby to which the Owner is or will be a party constitutes, or when entered into will constitute, a legal, valid, and binding obligation of the Owner enforceable against the Owner in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws from time to time in effect which affect creditors' rights generally, and subject to usual equitable principles in the event that equitable remedies are involved.
- E. There are no pending or, to the knowledge of the Owner, threatened actions or proceedings before any court or administrative agency against the Owner which question the validity of the Contract Documents or any document contemplated hereunder, or which are likely in any case or in the aggregate to materially adversely affect the consummation of the transactions contemplated hereunder or the financial or corporate condition of the Owner.
- F. The Owner shall use due diligence to timely fulfill or cause to be fulfilled all of the conditions expressed in the Contract Documents which are within the control of the Owner or which are the responsibility of the Owner to fulfill.
- G. During the pendency of the Work and while the obligations of the Owner under the Contract Documents shall be in effect, the Owner shall cause to occur and to continue to be in effect and take such action as may be necessary to enforce those instruments, documents, certificates and events contemplated by the Contract Documents that are applicable to and the responsibility of the Owner.
- H. The Owner shall assist and cooperate with the Contractor in accomplishing the construction of the Project in accordance with the Contract Documents and the Project Plans and Specifications, and will not knowingly violate any laws, ordinances, rules, regulations, orders, contracts, or agreements that are or will be applicable thereto or, to the extent permitted by law, enact or adopt any resolution, rule, regulation, or order, or approve or enter into any contract or agreement, including issuing any bonds, notes, or other forms of indebtedness, that will result in the Contract Documents or any part thereof, or any other instrument contemplated by and material to the timely and effective performance of a party's obligations hereunder, to be in violation thereof.

ARTICLE XIV, TERMINATION AND SUSPENSION

14.1 Termination for Cause by Owner

This Agreement may be terminated by Owner upon written notice to the Contractor should Contractor fail substantially to perform a material obligation in accordance with the terms of the Contract Documents through no fault of the Owner. In the event Owner terminates for cause and it is later determined by a court of competent jurisdiction that

such termination for cause was not justified, then in such event such termination for cause shall automatically be converted to a termination without cause pursuant to Section 14.2.

- A. Nonperformance. If the Contractor fails to timely perform any of its obligations under the Contract Documents, including any obligation the Contractor assumes to perform Work with its own forces, or if it persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or fails, without being excused, to maintain an established schedule (failure to maintain schedule shall be defined as any activity that falls thirty (30) days or more behind schedule) which has been adopted by the Construction Team, or it fails to make prompt payment to Subcontractors for materials or labor, or disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of substantial violations of the Agreement the Owner may, after seven (7) days written notice, during which period the Contractor fails to perform such obligation, make good such deficiencies and perform such actions. The Contract Sum shall be reduced by the cost to the Owner of making good such deficiencies, and the Contractor's compensation shall be reduced by an amount required to manage the making good of such deficiencies. Provided, however, nothing contained herein shall limit or preclude Owner from pursuing additional damages from Contractor because of its breach.

- B. Insolvency. If the Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed because its insolvency, then the Owner may, without prejudice to any other right or remedy, and after giving the Contractor and its surety, if any, fourteen (14) days written notice, and during which period the Contractor fails to cure the violation, terminate the Agreement. In such case, the Contractor shall not be entitled to receive any further payment. Owner shall be entitled to recover all costs and damages arising because of failure of Contractor to perform as provided in the Contract Documents, as well as reasonable termination expenses, and costs and damages incurred by the Owner may be deducted from any payments left owing the Contractor.

- C. Illegality. Owner may terminate the Agreement if Contractor disregards laws or regulations of any public body having jurisdiction.

- D. Rights of Owner. The Owner may, after giving Contractor (and the surety, if there is one) seven (7) days written notice, terminate the services of Contractor for cause; exclude Contractor from the Project Site and take possession of the Work and of all Contractor's tools, construction equipment and machinery at the Project Site and use the same to the full extent they could be used (without liability to Contractor for trespass or conversion); incorporate in the Work all materials and equipment stored at the Project Site or for which Owner has paid Contractor but which are stored elsewhere, and finish the Work as Owner may deem expedient. In such case, Contractor shall not be entitled to receive any further payment beyond an amount equal to the value of material and equipment not incorporated in the Work, but delivered and suitably stored, less the

aggregate of payments previously made. If the direct and indirect costs of completing the Work exceed the unpaid balance of the Contract Sum, Contractor shall pay the difference to Owner. Such costs incurred by Owner shall be verified by Owner in writing; but in finishing the Work, Owner shall not be required to obtain the lowest quote for the Work performed. Contractor's obligations to pay the difference between such costs and such unpaid balance shall survive termination of the Agreement. In such event and notwithstanding any other provisions of the Contract Documents to the contrary, Owner shall be entitled to bring a direct action in the Circuit Court to recover such costs.

14.2 Termination without Cause by Owner

The Owner, through its County Administrator or designee, shall have the right to terminate the Agreement, in whole or in part, without cause upon sixty (60) calendar days' written notice to the Contractor. In the event of such termination for convenience, the Owner shall compensate Contractor for payments due through the date of termination, and one subsequent payment to cover costs of Work performed through the date of termination, subject to the terms and conditions of Section 3.1. The Contractor shall not be entitled to any other further recovery against the Owner, including, but not limited to, anticipated fees or profit on Work not required to be performed, or consequential damages or costs resulting from such termination.

- A. Release of Contractor. As a condition of Owner's termination rights provided for in this subsection, Contractor shall be released and discharged from all obligations arising by, through, or under the terms of the Contract Documents, and the Payment and Performance Bond shall be released. Owner shall assume and become responsible for the reasonable value of Work performed by Subcontractors prior to termination plus reasonable direct close-out costs, but in no event shall Subcontractors be entitled to unabsorbed overhead, anticipatory profits, or damages for early termination.
- B. Waiver of Protest. Contractor hereby waives any right to protest the exercise by Owner of its rights under this Section that may apply under the Procurement Ordinance.

14.3 Suspension without Cause

Owner may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) days by written notice to Contractor, which will fix the date on which Work will be resumed. Contractor shall be allowed an increase in the Contract Sum or an extension of the Contract Time, or both, directly attributable to any suspension if Contractor makes an approved claim therefor.

14.4 Termination Based Upon Abandonment, Casualty or Force Majeure

If, after the construction commencement date (i) Contractor abandons the Project (which for purposes of this paragraph shall mean the cessation of all construction and other activities relating to the Project, excluding those which are necessary to wind down or otherwise terminate all outstanding obligations with respect to the Project, and no recommencement of same within one hundred twenty (120) days following the date of cessation), or (ii) the Project is stopped for a period of thirty (30) consecutive days

due to an instance of Force Majeure or the result of a casualty resulting in a loss that cannot be corrected or restored within one hundred twenty (120) days (excluding the time required to assess the damage and complete the steps contemplated under Section 12.2), the Owner shall have the right to terminate the Agreement and pay the Contractor its compensation earned or accrued to date.

14.5 Vacation of Project Site; Delivery of Documents

Upon termination by Owner pursuant to Section 14.2 or 14.4, Contractor shall withdraw its employees and its equipment, if any, from the Project Site on the effective date of the termination as specified in the notice of termination (which effective date shall not be less than two (2) working days after the date of delivery of the notice), regardless of any claim the Contractor may or may not have against the Owner. Upon termination, the Contractor shall deliver to the Owner all original papers, records, documents, drawings, models and other material set forth and described in the Contract Documents.

14.6 Termination by the Contractor

If, through no act or fault of Contractor, the Work is suspended for a period of more than ninety (90) consecutive days by Owner or under an order of court or other public authority, or Owner fails to act on any Application for Payment or fails to pay Contractor any sum finally determined to be due; then Contractor may, upon fourteen (14) days written notice to Owner terminate the Agreement and recover from Owner payment for all Work executed, any expense sustained plus reasonable termination expenses. In lieu of terminating the Agreement, if Owner has failed to act on any Application for Payment or Owner has failed to make any payment as aforesaid, Contractor may upon fourteen (14) days written notice to Owner stop the Work until payment of all amounts then due.

Exhibit A, Title(s) of Drawings

Final Site Plan/Construction Plans for Southwest Water Reclamation Facility New Headworks, Chlorine Contact Chamber Rehabilitation and Recharge Well Pump Station, County Project No. 6083381 & 6091780 dated March 2019

Southwest Water Reclamation Facility New Headworks, County Project No. 6083381 dated September 2019

Southwest Water Reclamation Facility Chlorine Contact Chamber Rehabilitation and Recharge Well Pump Station, County Project No. 6091780 dated September 2019

Exhibit B, Title(s) of Specifications

Contract Documents and Technical Specifications, Southwest Water Reclamation Facility New Headworks Project and CCC Rehabilitation and Recharge Well Pump Station Project dated September 2019

Exhibit C, Affidavit of No Conflict

APPENDIX I, AFFIDAVIT OF NO CONFLICT

COUNTY OF Miami-Dade
STATE OF Florida

BEFORE ME, the undersigned authority, this 24th day of January, 2020 personally appeared, Patrick H. Carr, a principal with full authority to bind Poole & Kent Company of Florida (hereinafter the "Affiant"), who being first duly sworn, deposes and says:

(a) is not currently engaged or will not become engaged in any obligations, undertakings or contracts that will require the Affiant to maintain an adversarial role against the County or that will impair or influence the advice, recommendations or quality of work provided to the County; and

(b) has provided full disclosure of all potentially conflicting contractual relationships and full disclosure of contractual relationships deemed to raise a question of conflict(s); and

(c) has provided full disclosure of prior work history and qualifications that may be deemed to raise possible question of conflict(s).

Affiant makes this affidavit for the purpose of inducing Manatee County, a political subdivision of the State of Florida, to enter into an Agreement for Southwest Water Reclamation Facility New Headworks and Chlorine Contact Chamber Rehabilitation and Recharge Well Pump Station.

If applicable, on a separate page Bidder shall disclose the name of any officer, director or agent of Bidder who is also an employee of the County and the name of any County employee who owns, directly or indirectly, any interest in the Bidder's firm or any of its branches. If no conflicts of interest are present, submit a statement to that affect.



Signature
Patrick H. Carr, President & CEO

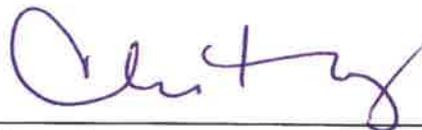
Print Name

SUBSCRIBED to and sworn before me this 24th day of January, 2020.

[Notary Seal]

Notary Public

My commission expires: October 31, 2020



Notary Signature
Christine Mendez

Print Name

Personally known OR produced identification. Type of identification produced personally known



Exhibit D, Contractor's Certificate(s) of Insurance



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/28/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER ***MARSH USA INC 1166 AVENUE OF THE AMERICAS NEW YORK, NY 10036 Phone: 866-966-4664 E-mail: Emcor.Certrequest@marsh.com / Fax: 203-229-6787 CN102796740-POOLE-TAM-19-20 20702	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):	
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED POOLE & KENT COMPANY OF FLORIDA 1715 LEMON ST. TAMPA, FL 33606	INSURER A : Continental Casualty Company		20443
	INSURER B : American Casualty Company of Reading, PA		20427
	INSURER C : Transportation Insurance Co		20494
	INSURER D : Continental Insurance Company		35289
	INSURER E : INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** NYC-010837387-01 **REVISION NUMBER:** 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD. WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:		GL 6078848337	10/01/2019	10/01/2020	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 6,000,000 PRODUCTS - COMP/OP AGG \$ 14,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		BUA 6078848368	10/01/2019	10/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Auto Physical Damage \$ Included
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		CUE 6050250605	10/01/2019	10/01/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	WC 6 78864408 (AOS) WC 6 78854106 (CA) WC 6 78856454 (AZ, OR, WI)	10/01/2019	10/01/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: 20702 - SWWRP NEW HEADWORKS & CCC REHABILITATION RECHARGE WELL PUMP STATION, IFBC NO. 20-TA003171SAM
ADDITIONAL INSURED UNDER ALL POLICIES (EXCEPT WORKERS COMPENSATION & EMPLOYERS LIABILITY) WHERE REQUIRED BY CONTRACT: MANATEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA.
COVERAGE PROVIDED TO THE ADDITIONAL INSUREDS IS PRIMARY & NON-CONTRIBUTORY.
WAIVER OF SUBROGATION AS REQUIRED BY CONTRACT AND WHERE NOT PROHIBITED BY LAW.

CERTIFICATE HOLDER MANATEE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA ATTN: RISK MANAGEMENT DIVISION 1112 MANATEE AVENUE WEST, SUITE 969 BRADENTON, FL 34205	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Manashi Mukherjee <i>Manashi Mukherjee</i>
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ADDITIONAL REMARKS SCHEDULE

AGENCY ***MARSH USA INC		NAMED INSURED POOLE & KENT COMPANY OF FLORIDA 1715 LEMON ST. TAMPA, FL 33606	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

AUTO PHYSICAL DAMAGE COMP / COLL DEDUCTIBLE \$500

IN THE EVENT OF CANCELLATION OR MATERIAL CHANGE THAT REDUCES OR RESTRICTS THE INSURANCE AFFORDED BY THIS COVERAGE PART (OTHER THAN THE REDUCTION OF AGGREGATE LIMITS THROUGH PAYMENT OF CLAIMS AS APPLICABLE), INSURER AGREES TO MAIL PRIOR WRITTEN NOTICE OF CANCELLATION OR MATERIAL CHANGE TO: CERTIFICATE HOLDER

SCHEDULE

1. NUMBER OF DAYS ADVANCE NOTICE: FOR ANY STATUTORILY PERMITTED REASON OTHER THAN NON-PAYMENT OF PREMIUM, THE NUMBER OF DAYS REQUIRED FOR NOTICE OF CANCELLATION AS PROVIDED IN PARAGRAPH 2 OF EITHER THE CANCELLATION COMMON POLICY CONDITIONS OR AS AMENDED BY THE APPLICABLE STATE CANCELLATION ENDORSEMENT IS INCREASED TO THE LESSER OF 60 DAYS OR THE NUMBER OF DAYS REQUIRED IN A WRITTEN CONTRACT.

FOR NON-PAYMENT OF PREMIUM, THE GREATER OF (1) THE NUMBER OF DAYS REQUIRED BY STATE LAW OR (2) THE NUMBER OF DAYS REQUIRED BY WRITTEN CONTRACT.

2. NAME:

NOTICE WILL BE MAILED TO: CERTIFICATE HOLDER



**Workers Compensation And Employers Liability Insurance
Policy Endorsement**

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 00 03 13 (04-1984)

Endorsement Effective Date:

Endorsement No: ; Page: 1 of 1

Underwriting Company: American Casualty Company of Reading, Pennsylvania

Policy No: WC 6 78864408

Policy Effective Date: 10/01/2019

Policy Page:



POLICY NUMBER: GL 6078848337
NAMED INSURED: EMCOR GROUP, INC.
POLICY TERM: 10/01/2019 to 10/01/2020

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT - OTHER INSURANCE
PRIMARY AND NON-CONTRIBUTORY**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Paragraph a. **Primary Insurance** of 4. **Other Insurance** of **Section IV- Commercial General Liability Conditions** is deleted and replaced with the following:

a. Primary Insurance

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below. However, coverage afforded to an additional insured under the terms of an endorsement attached to this policy is primary insurance and we will not seek contribution from any such additional insured's primary insurance if:

- (1) You have agreed in writing in a contract or agreement that this insurance will be primary and non-contributory; and
- (2) The written contract or written agreement was executed prior to:
 - (a) The "bodily injury" or "property damage"; or
 - (b) The offense that caused the "personal and advertising injury"for which the additional insured seeks coverage under this Coverage Part.

POLICY NUMBER: GL 6078848337
NAMED INSURED: EMCOR Group, Inc.
POLICY TERM: 10-01-2019 to 10-01-2020

CG 20 10 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS (FORM B)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

ALL PERSONS OR ORGANIZATIONS FOR WHOM YOU ARE REQUIRED BY CONTRACT TO ADD AS AN ADDITIONAL INSURED BUT ONLY IF THE PERSON OR ORGANIZATION DOES NOT QUALIFY AS AN ADDITIONAL INSURED WITH RESPECT TO WORK PERFORMED BY OR FOR YOU PURSUANT TO THAT CONTRACT OR ANOTHER ADDITIONAL INSURED ENDORSEMENT ATTACHED TO AND FORMING A PART OF THIS POLICY.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.



ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

SCHEDULE

Name of Additional Insured Persons Or Organizations
ANY PERSON OR ORGANIZATION FOR WHOM YOU ARE OBLIGATED TO PROVIDE BUSINESS AUTO LIABILITY INSURANCE COVERAGE AS AN ADDITIONAL INSURED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT AND THAT WRITTEN CONTRACT OR WRITTEN AGREEMENT REQUIRES THAT THE INSURANCE AFFORDED TO THE ADDITIONAL INSURED APPLY ON A PRIMARY AND NON-CONTRIBUTORY BASIS.

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section II – LIABILITY COVERAGE, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "accident" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the Policy remain unchanged.

POLICY NUMBER: GL 6078848337
NAMED INSURED: EMCOR Group, Inc.
POLICY TERM: 10-01-2019 to 10-01-2020

COMMERCIAL GENERAL LIABILITY
CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
PERSONS OR ORGANIZATIONS FOR WHOM YOU ARE REQUIRED BY CONTRACT TO ADD AS AN ADDITIONAL INSURED FOR COMPLETED OPERATIONS COVERAGE BUT ONLY IF THE PERSON OR ORGANIZATION DOES NOT QUALIFY AS AN ADDITIONAL INSURED FOR COMPLETED OPERATIONS ON ANOTHER ADDITIONAL INSURED ENDORSEMENT ATTACHED TO AND FORMING A PART OF THIS POLICY.	AS PER THE WRITTEN CONTRACT OR WRITTEN AGREEMENT, PROVIDED THE LOCATION IS WITHIN THE "COVERAGE TERRITORY" OF THIS COVERAGE PART.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

Exhibit E Contractor's Payment and Performance Bond

FRONT PAGE



**CONTRACTOR'S PERFORMANCE AND PAYMENT BOND
(Public Work)**

Bond No.: *107215203 / K4044158A

Contractor Name: *Poole & Kent Company of Florida

Contractor Address: *1715 W. Lemon Street, Tampa, FL 33606

Contractor Phone No.: * (813) 251-2438

Surety Company: *Travelers Casualty and Surety Company of America
Federal Insurance Company

Owner Name: *Manatee County, Board of County Commissioners

Owner Address: *1112 Manatee Avenue West, Suite 803
Bradenton, FL 34205

Owner Phone No.: *941-749-3074

(If different from property
Owner, or Dual Obligee)

Obligee Address: *Same as above

Obligee Phone No.: *Same as above

Bond Amount: *\$19,054,092.20

Contract No. (if applicable) *20-TA003171SAM

Description of Work: *Agreement No. 20-TA003171SAM, Southwest Water Reclamation Facility New
Headworks and Chlorine Contact Chamber Rehabilitation and Recharge Well
Pump Station

Project Location: * Manatee County, Florida

Legal Description: *Agreement No. 20-TA003171SAM, Southwest Water Reclamation Facility New
Headworks and Chlorine Contact Chamber Rehabilitation and Recharge Well
Pump Station

This Bond has been furnished to comply with the requirements of F.S. 255.05. This bond is hereby amended such that all provisions and limitations, including conditions, notice and time limitations of F.S. 255.05 are incorporated herein by reference. Any provision of this bond which conflicts with or purports to grant broader or more expanded coverage in excess of the minimum of the applicable statute shall be deemed deleted herefrom. This bond is a statutory bond, not a common law bond.

This is the front page of the Performance/Payment Bond(s) regardless of preprinted numbers on other pages issued in compliance with Florida Statute 255.05.

MANATEE COUNTY GOVERNMENT, PUBLIC CONSTRUCTION BOND
NUMBER 107215203 / K4044158A

BY THIS BOND,

We Poole & Kent Company of Florida, (Name of Contractor)

located at 1715 W. Lemon Street, Tampa, FL 33606, (Address) as

Principal and Travelers Casualty and Surety Company of America &
Federal Insurance Company, (Name of Surety)

a corporation whose address is One Tower Square, Hartford, CT 06183 (TR)
202B Halls Mill Road, Whitehouse Station, NJ 08889 (FE)

are bound to Manatee County, a political subdivision of the State of Florida, herein called
County, in the sum of \$19,054,092.20, for payment of which we bind ourselves, our heirs,
personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND is that if Principal:

1. Performs Agreement No. 20-TA003171SAM, (Agreement) between Principal and County for construction of Southwest Water Reclamation Facility New Headworks and Chlorine Contact Chamber Rehabilitation and Recharge Well Pump Station, the Agreement being made a part of this bond by reference, at the times and in the manner prescribed in the Agreement; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the Work provided for in the Agreement; and
3. Pays County all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the Agreement; and
4. Performs the guarantee of all Work and materials furnished under the Agreement for the time specified in the Agreement, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

Any changes in or under the Agreement documents and compliance or noncompliance with any formalities connected with the Agreement, or the changes, do not affect Surety's obligation under this bond.

DATED ON _____

CONTRACTOR AS PRINCIPAL

Company Name: Poole & Kent Company of Florida (Print Name)

Signature: 

Printed Name and Title: Patrick H. Carr, President & CEO

Date: February 28, 2020

(Corporate Seal)

SURETY

Company Name: Travelers Casualty and Surety Company of America & Federal Insurance Company (Print Name)

Signature: 

Printed Name and Title: Camille Maitland, Attorney-In-Fact

Date: February 27, 2020

(Corporate Seal)

SURETY AGENT OR BROKER

Company Name: Alliant Insurance Services, Inc. (Print Name)

Address: 333 Earle Ovington Blvd., Suite 700, Uniondale, NY 11553

Telephone: (516) 414-8900

Email: cmaitland@alliant.com

Licensed Florida Insurance Agent? Yes No

License No.: W012268

State of: State of Florida

County of: N/A

City of: N/A

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

CAMILLE M MAITLAND

License Number : W012268

Non Resident Insurance License

- 0920 - NONRES GEN LINES (PROP & CAS)

Issue Date

09/03/2010

NOTICE - This non-resident license is limited to the classes of insurance reflected above and is further limited to ONLY those classes of insurance for which you are licensed in your home state.

Please Note:

A licensee may only transact insurance with an active appointment by an eligible insurer or employer. If you are acting as a surplus lines agent, public adjuster, or reinsurance intermediary manager/broker, you should have an appointment recorded in your own name on file with the Department. If you are unsure of your license status you should contact the Florida Department of Financial Services immediately. This license will expire if more than 48 months elapse without an appointment for each class of insurance listed. If such expiration occurs, the individual will be required to re-qualify as a first-time applicant. If this license was obtained by passing a licensure examination offered by the Florida Department of Financial Services, the licensee is required to comply with continuing education requirements contained in 626.2815 or 648.385, Florida Statutes. A licensee may track their continuing education requirements completed or needed in their MyProfile account at <https://dice.fdfs.com>. To validate the accuracy of this license you may review the individual license record under "Licensee Search" on the Florida Department of Financial Services website at <http://www.MyFloridaCFO.com/Division/Agents>



Jeff Atwater
Chief Financial Officer
State of Florida



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Camille Maitland of Uniondale, New York**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **3rd** day of **February**, 2017.



State of Connecticut

City of Hartford ss.

By: 
Robert L. Raney, Senior Vice President

On this the **3rd** day of **February**, 2017, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2021




Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

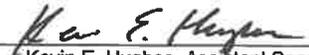
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this _____ day of _____,




Kevin E. Hughes, Assistant Secretary

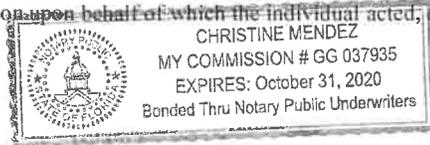
**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.**

**TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
HARTFORD, CT 06183**

PRINCIPAL'S ACKNOWLEDGMENT

State of Florida , County of Miami-Dade ss.

On this 28th day of February in the year 2020, before me, the undersigned, personally appeared Patrick H. Carr, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Christine Mendez
Notary Public

SURETY COMPANY'S ACKNOWLEDGMENT

State of NEW YORK , County of NASSAU) ss.

On this 27th day of February in the year 2020, before me, the undersigned, personally appeared Camille Maitland, personally known to me, and who, being by me duly sworn, did depose and say: That he/she resides in Kings County, New York; that he/she is Attorney-in-Fact of **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**, the corporation described in and which executed the within instrument; that he/she knows the corporate seal of said Company; that the seal affixed to said instrument is such corporate seal; and that he/she signed said instrument as Attorney-in-Fact by authority of the Board of Directors of said Company; and affiant did further depose and say that the Superintendent of the State of New York Department of Financial Services has, pursuant to Section 1111 of the New York Insurance Law, issued to **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA** his/her certificate that said Company is qualified to become and be accepted as surety or guarantor on all bonds, undertakings, recognizances, guaranties, and other obligations required or permitted by law; and that such certificate has not been revoked.

Nelly M Renchiwich
Notary Public

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
HARTFORD, CONNECTICUT 06183

NELLY M RENCHIWICH
Notary Public, State of New York
No. 01RE6218158
Qualified in Nassau County
Commission Expires March 1, 2022

FINANCIAL STATEMENT AS OF DECEMBER 31, 2018
AS FILED IN THE STATE OF NEW YORK
CAPITAL STOCK \$ 6,480,000

ASSETS		LIABILITIES & SURPLUS	
CASH AND INVESTED CASH	\$ 36,728,596	UNEARNED PREMIUMS	\$ 979,007,378
BONDS	3,507,432,239	LOSSES	750,995,504
STOCKS	294,199,598	LOSS ADJUSTMENT EXPENSES	166,673,871
INVESTMENT INCOME DUE AND ACCRUED	38,287,129	COMMISSIONS	45,868,584
OTHER INVESTED ASSETS	3,507,839	TAXES, LICENSES AND FEES	14,584,663
PREMIUM BALANCES	250,478,792	OTHER EXPENSES	43,858,534
NET DEFERRED TAX ASSET	48,781,239	CURRENT FEDERAL AND FOREIGN INCOME TAXES	10,143,037
REINSURANCE RECOVERABLE	29,278,755	REMITTANCES AND ITEMS NOT ALLOCATED	21,277,153
SECURITIES LENDING REINVESTED COLLATERAL ASSETS	14,277,262	AMOUNTS WITHHELD / RETAINED BY COMPANY FOR OTHERS	30,289,553
RECEIVABLES FROM PARENT, SUBSIDIARIES AND AFFILIATES	27,813,266	RETROACTIVE REINSURANCE RESERVE ASSUMED	810,360
ASSUMED REINSURANCE RECEIVABLE AND PAYABLE	626,488	POLICYHOLDER DIVIDENDS	10,410,755
OTHER ASSETS	4,936,229	PROVISION FOR REINSURANCE	7,641,356
		ADVANCE PREMIUM	1,608,777
		REINSURANCE PAYABLE ON PAID LOSSES & LOSS ADJ. EXPENSES	868,002
		PAYABLE FOR SECURITIES LENDING	14,277,262
		CEDED REINSURANCE NET PREMIUMS PAYABLE	46,469,976
		OTHER ACCRUED EXPENSES AND LIABILITIES	335,489
		TOTAL LIABILITIES	\$ 2,145,120,254
		CAPITAL STOCK	\$ 6,480,000
		PAID IN SURPLUS	433,803,760
		OTHER SURPLUS	1,670,943,418
		TOTAL SURPLUS TO POLICYHOLDERS	\$ 2,111,227,178
TOTAL ASSETS	\$ 4,256,347,432	TOTAL LIABILITIES & SURPLUS	\$ 4,256,347,432

CHUBB

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company

Bond Number: K4044158A

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Katherine Acosta, Thomas Bean, George O. Brewster, Desiree Cardlin, Colette R. Chisholm, Dana Granice, Susan Lupski, Gerard S. Macholz, Camille Maitland, Robert T. Pearson, Nelly Renchiwich, Rita Losquadro, Vincent A. Walsh and Michelle Wannamaker of Uniondale, New York

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than ball bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 25th day of March, 2019.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY

County of Hunterdon

ss.

On this 25th day of March, 2019, before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Stephen M. Haney, and knows him to be Vice President of said Companies; and that the signature of Stephen M. Haney, subscribed to said Power of Attorney is in the genuine handwriting of Stephen M. Haney, and was thereto subscribed by authority of said Companies and in deponent's presence.

Notarial Seal



ROSE CURTIS
NOTARY PUBLIC OF NEW JERSEY
No. 50072400
Commission Expires November 22, 2022

Rose Curtis
Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016:

*RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested.

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this ___ day of ___, 2020



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

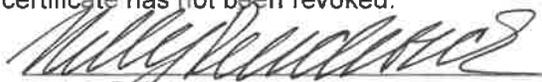
IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

ACKNOWLEDGMENT OF SURETY COMPANY

STATE OF NEW YORK }

COUNTY OF NASSAU }

On this February 27, 2020, before me personally came Camille Maitland to me known, who, being by me duly sworn, did depose and say; that he/she resides in Kings County, State of New York that he/she is the Attorney-In-Fact of the Federal Insurance Company the corporation described in which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by the Board of Directors of said corporation; and that he/she signed his/her name thereto by like order; and the affiant did further depose and say that the Superintendent of Insurance of the State of New York, has pursuant to Section 1111 of the Insurance Law of the State of New York, issued to Federal Insurance Company (Surety) his/her certificate of qualification evidencing the qualification of said Company and its sufficiency under any law of the State of New York as surety and guarantor, and the propriety of accepting and approving it as such; and that such certificate has not been revoked.


Notary Public

NY acknowledgement

NELLY M RENCHWICH
Notary Public-State of New York
No. 01RE6218158
Qualified in Nassau County
Commission Expires March 1, 2022

FEDERAL INSURANCE COMPANY
STATEMENT OF ASSETS, LIABILITIES AND SURPLUS TO POLICYHOLDERS

Statutory Basis

DECEMBER 31, 2018

(in thousands)

<i>ASSETS</i>		<i>LIABILITIES AND SURPLUS TO POLICYHOLDERS</i>	
Cash and Short Term Investments United States Government, State and Municipal Bonds	\$ (360,335) 5,738,426	Outstanding Losses and Loss Expenses	\$ 6,523,482
Other Bonds	3,916,616	Reinsurance Payable on Losses and Expenses	1,490,981
Stocks	100,774	Unearned Premiums	1,914,190
Other Invested Assets	959,127	Ceded Reinsurance Premiums Payable	405,271
TOTAL INVESTMENTS	10,354,608	Other Liabilities	565,865
Investments in Affiliates:		TOTAL LIABILITIES	10,899,789
Great Northern Ins. Co.	384,987	Capital Stock	20,980
Vigilant Ins. Co.	333,743	Paid-In Surplus	2,711,474
Chubb Indemnity Ins. Co.	176,202	Unassigned Funds	2,057,388
Chubb National Ins. Co.	176,647	SURPLUS TO POLICYHOLDERS	4,789,842
Chubb European Inv. Holdings, SLP	120,469		
Other Affiliates	99,299		
Premiums Receivable	1,281,368		
Other Assets	2,762,308		
TOTAL ADMITTED ASSETS	\$ 15,689,631	TOTAL LIABILITIES AND SURPLUS	\$ 15,689,631

Investments are valued in accordance with requirements of the National Association of Insurance Commissioners, At December 31, 2018, investments with a carrying value of \$566,806,856 were deposited with government authorities as required by law.

STATE OF PENNSYLVANIA
COUNTY OF PHILADELPHIA

John Taylor, being duly sworn, says that he is Senior Vice President of Federal Insurance Company and that to the best of his knowledge and belief the foregoing is a true and correct statement of the said Company's financial condition as of the 31 st day of December, 2018.

Sworn before me this March 19, 2019



Senior Vice President



Notary Public

August 8, 2019
My commission expires

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Diane Wright, Notary Public
City of Philadelphia, Philadelphia County
My Commission Expires Aug. 8, 2019
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Exhibit F Standard Forms

APPLICATION FOR PAYMENT

Request No.: _____ Project No.: _____
 Purchase Order No.: _____
 County Bid No.: _____
 Consultant: _____

Project: _____
 From: _____ To: _____

CONTRACT PAYMENT SUMMARY

Original Contract Amount:				\$	-
Change Order(s):				\$	-
Change order summary:					
Number	Date Approved	Additive	Deductive		
SUBTOTALS:		\$	-	\$	-
Net change order subtotal (Additive less Deductive):				\$	-
Current Contract Amount (CCA): (Original Amount + Change Order(s))				\$	-
		Previous Status	Total WIP		
Value of the Work in Place (WIP)	\$	-	\$	-	
Value of Stored Materials	\$	-	\$	-	
Total Earned (\$ and % of CCA)	\$	-	\$	-	
Retainage (\$ and % of CCA)	\$	-	\$	-	
Net Earned (Total earned minus retainage)				\$	-
TOTAL PREVIOUS PAYMENTS				\$	-
AMOUNT DUE THIS PAYMENT (Net Earned minus Previous Payments)				\$	-

CONTRACTOR'S AFFIDAVIT OF NOTICE

CERTIFICATE: The undersigned CONTRACTOR certifies that all items and amounts shown on this Application for Payment are on account of work performed, materials supplied and/or materials stored on site and paid for by Contractor in accordance with the Contract Documents with due consideration for previous Payment(s), if any, received by the Contractor from the County, and that the Amount Due this Payment shown is now due.

NOTARY:

CONTRACTOR:

State of Florida, County of _____

 Name of person authorized to sign Affidavit of Notice

Sworn to (or affirmed) and subscribed before me this _____ day of _____ by _____

 TITLE

 (Name of person giving notice)

Contractor name, address and telephone no.:

 (Signature of Notary Public - State of Florida)

Print, Type or Stamp Commissioned Name of Notary Public:

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____

VERIFICATION, RECOMMENDATION, CONCURRENCES AND APPROVALS

(Signatures)

(Date)

Quantities verified by: _____

Consultant/Engineer: _____

Project Management: _____

Department Head: _____

Payment approved by the Board of County Commissioners: _____

Attested to by the Clerk of Circuit Court: _____

**FINAL RECONCILIATION, WARRANTY PERIOD DECLARATION
AND CONTRACTOR'S AFFIDAVIT**

Project Title:	Date Submitted:
----------------	-----------------

Contractor Data: Name: Address: City/State/Zip:	Project No:
	Warranty (months):

This Final Reconciliation is for the work performed for Manatee County by the above named contractor, hereinafter called CONTRACTOR, pursuant to the contract dated _____ as amended, and acts as an addendum thereto.

It is agreed that all quantities and prices in the attached Final Pay Estimate No. _____ are correct and that the amount of \$ _____ including retainage is due to the CONTRACTOR, that no claims are outstanding as between the parties, and that the above stated sum represents the entirety of monies owed the CONTRACTOR.

It is further agreed that the warranty period for CONTRACTOR'S work pursuant to the Contract is from _____ to _____

As (title) _____ for CONTRACTOR, I have authority to bind said CONTRACTOR, and as such make this final reconciliation, declaration and affidavit for the purpose of inducing Manatee County to make final payment to CONTRACTOR for work done at/upon _____ under said contract:

CONTRACTOR has paid all social security and withholding taxes accrued in connection with the construction project.

CONTRACTOR has paid all workers' compensation and other insurance premiums incurred in connection with this construction project.

CONTRACTOR has paid for all required permits in connection with this construction project.

All laborers, material, men, suppliers, subcontractors and service professionals who worked for and/or supplied materials, equipment and/or services to the CONTRACTOR under this construction contract have been paid in full.

(Affiant Signature)

NOTARY:
State of Florida, County of _____, Sworn to (or affirmed) and subscribed before me this _____ day of _____, _____, by _____ (person giving notice).

Signature of Notary Public - State of Florida: _____
Print, Type or Stamp Commissioned Name of Notary Public:

Personally Known or Produced Identification
Type of Identification Produced _____

CONTRACT CHANGE ORDER

(for Total Contract Adjusted Amount Greater than \$1,000,000)

PROJECT: _____

Change Order No.: _____

**Contract Amount
(Present Value)**

Project Number: _____

NO. OF ITEM	DESCRIPTION OF ITEM AND CHANGE	DECREASE	INCREASE

BY EXECUTION OF THIS CHANGE ORDER THE CONTRACTOR AGREES THAT ALL CLAIMS FOR ADDITIONAL CONTRACT TIME AND FEES FOR THE ITEMS IN THIS CHANGE ORDER HAVE BEEN SATISFIED.

TOTAL DECREASE: _____

TOTAL INCREASE: _____

Contractor: _____
Address: _____
City / State: _____

THE NET CHANGE OF
 ADJUSTS THE CURRENT CONTRACT AMOUNT FROM
 _____ TO

Contractor Signature: _____ **Date:** _____

____ CALENDAR DAYS ARE ADDED TO THE SCHEDULE
 WHICH CHANGES THE FINAL COMPLETION DATE TO
 MONTH DAY, YEAR

RECOMMENDATION, CONCURRENCES AND APPROVALS

SIGNATURES

DATE

Consultant / Engineer: _____

Project Manager: _____

Division Manager: _____

Project Management Division Manager

Manatee County Purchasing: _____

Purchasing Official

Authority to execute this contract per Manatee County Code, Chapter 2-26,
 and per the delegation by the County Administrator effective 1/26/2009

JUSTIFICATION FOR CHANGE

Change Order No :

Project Number:

1. NECESSITY FOR CHANGE:



2. Is change an alternate bid? (If yes, explain)

3. Does change substantially alter the physical size of the project? (If yes, explain)

4 Effect of this change on other "Prime" contractors?

5 Has the Surety and insurance company been notified, if applicable? CONTRACTOR RESPONSIBILITY