RFQ-SF-01-0-2019

Space Florida
Request for Qualifications
for

Construction Manager for
Shuttle Landing Facility Utility Corridor Project

RFQ Issue Date:	**December 17, 2018**
RFQ Revision 01	**January 7, 2019**
RFQ Revision 02	**January 14, 2019**
RFQ Revision 03	**March 13, 2019**
RFQ Due Date:	**February 22, 2019**
Prepared By:	**Space Florida**
Published Date:	**December 13, 2018**

Space Florida
505 Odyssey Way, Suite 300
Exploration Park, FL 32953
(321) 730-5301

SHUTTLE LANDING FACILITY UTILITY CORRIDOR
RFQ 01-0-2019

REQUEST FOR QUALIFICATIONS

Space Florida is seeking qualifications from interested firms to provide Construction Management Services for the Shuttle Landing Facility Utility Corridor Project ("Project").

Space Florida seeks statements of qualification from qualified construction management firms with extensive experience in the design and construction of spaceport facilities, airport facilities, and related infrastructure, including without limitation horizontal infrastructure such as utilities, roads and other spaceport infrastructure. The firms should be experienced in estimation of construction costs and value engineering.

RFQ 01-0-2019 Request for Qualifications - Shuttle Landing Facility Utility Corridor Project. These services will be acquired in compliance with the Consultants Competitive Negotiations Act, Florida Statutes 287.055.

Sealed written qualifications packages will be received by mail to Space Florida, 505 Odyssey Way, Suite 300, Exploration Park, Florida 32953, attention Annette O'Donnell, or delivered in person to the reception desk on the first floor of the Space Life Sciences Lab, 505 Odyssey Way, Exploration Park, Florida 32953, until **February 22, 2019 at 2:00 PM, EST (Eastern Standard Time)**.

A selection committee meeting will be held on **March 13, 2019 at 11:00 a.m.** for the purpose of reviewing qualifications packages and short-listing three or more qualified firms. Presentations and interviews by and of the short-listed firms are anticipated to occur on **April 2 or 3, 2019**. The selection committee meeting, presentations and interviews will be held in the Space Life Sciences Building, 505 Odyssey Way, Exploration Park, FL and will be open to the public.

Space Florida reserves the right to reject all qualifications packages with or without cause, to waive technical errors and informalities, or to seek clarification on certain issues from any firms submitting a qualifications package.

Space Florida

By_____
Director of Contracts

Published:
Florida Today – December 17, 2018
DemandStar – December 17, 2018
Space Florida Website – December 17, 2018

Shuttle Landing Facility Utility Corridor Project
RFQ 01-0-2019

BACKGROUND

Space Florida is dedicated to fostering the growth and development of a sustainable and world-leading aerospace industry in the State of Florida. Space Florida promotes aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. Space Florida is an independent special district and a subdivision of the State of Florida and is governed by Part II of Chapter 331 of the Florida Statutes.

Among other powers, Space Florida has the power to own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve launch pads, landing areas, ranges, payload assembly buildings, payload processing facilities, laboratories, aerospace business incubators, launch vehicles, payloads, space flight hardware, facilities and equipment for the construction of payloads, space flight hardware, rockets, and other launch vehicles, and other spaceport facilities and other aerospace-related systems, including educational, cultural, and parking facilities and aerospace-related initiatives.

Space Florida is issuing this Request for Qualifications (the "RFQ") is to select the most highly qualified firm to provide Construction Management At Risk Services for the Shuttle Landing Facility Utility Corridor Project for Space Florida (the "Project") as further described in Attachment "B". Submittals will be reviewed and evaluated as to qualifications to perform the services required by a Space Florida selection committee. One firm will be selected by Space Florida to provide the scope of services for the Project in accordance with Section 287.055 of the Florida Statutes, the Consultants' Competitive Negotiation Act (the "CCNA").

PURPOSE

This RFQ shall serve to provide interested parties with specific information as to the procedures for selection of a firm to perform the Project.

In determining whether a firm is qualified, Space Florida shall consider such factors as the ability of professional personnel; past performance; willingness to meet time and budget requirements; location of the supporting office; recent, current, and projected workloads of the firm and all other factors under Section 287.055. The agreement with the chosen firm will provide compensation on the basis of the cost of the work plus a percentage fee with a guaranteed maximum price and with an agreed upon substantial completion deadline. The agreement will be negotiated pursuant to the CCNA. The forms of the required agreement are included in Attachment "A" to this RFQ package.

PROJECT DESCRIPTION:

The Project description and scope of work to be performed is described on Attachment "B".

MINIMUM CRITERIA

As a minimum, the firms proposing shall have at least 10 years of construction experience in work of a similar nature and must provide references of at least 7 years of prior successful similar projects, such as roads and underground utility installations.

It is recommended that the firm has an office within reasonable proximity to Space Florida and demonstrate that they will be able to provide services in a timely manner.

These dates are estimate and are subject to change by Space Florida:

EVENT	DATE	TIME (EST)
Legal Notice sent to Florida Today	12/13/2018	11:00 AM
RFQ Posted on Space Florida's Website and DemandStar	12/17/2018	12:00 Noon
Mandatory Conference/Site Visit Registration & Visitor Badge Request Form Deadline	1/2/2019	4:00 PM
Mandatory Conference or Site Visit	1/10/2019	~~9:00 AM~~ 9:30 AM
Question Submission Deadline	1/25/2019	2:00 PM
Question Responses Posted	2/8/2019	2:00 PM
Qualifications Packages Due	2/22/2019	2:00 PM
Qualifications Packages Opened* and Evaluated – Procurement Manager (PM)	2/25/2019	11:00 AM
Qualifications Packages Evaluated individual Selection Committee Members	2/26/2019	11:00 AM
~~Notice of Selection Committee meeting to determine short-listed firms published in Fla. Admin. Register and on Space Florida's website~~	~~3/6/2019~~	~~11:00 AM~~
~~Selection Committee meeting to short-list 3 or more qualified firms (Public Forum)~~	~~3/13/2019~~	~~11:00 AM~~
Qualified short-listed firms notified	~~3/13/2019~~ **3/15/2019**	11:00 AM
Notice of Selection Committee meeting for short-listed firm presentations/interviews published in Fla. Admin. Register and on Space Florida website	~~3/26/2019~~ **3/22/2019**	11:00 AM
~~Presentations /~~ **Telephone** Interviews (Public Forum)	4/2/2019~~-4/3/2019~~	9:00 AM
Notice of Intent to Negotiate posted on Space Florida's website	~~4/15/2019~~ 4/5/2019	11:00 AM
Notice of Intent to Award posted on Space Florida's website no later than	4/19/2019	11:00 AM
Award Notice posted on Space Florida's website	TBD	

*Sealed qualification packages received in response to this RFQ are exempt from subsection 119.07(1) of the Florida Statutes and Subsection 24(a) of Article I of the Florida Constitution (the Public Records Act) until notice of an intended decision by Space Florida or until thirty days after opening the sealed qualification packages, whichever is earlier. At that time, the qualifications packages received will be made available to the public.

COMMUNICATIONS AND QUESTIONS

1. Prospective firms and representatives thereof shall not contact, communicate with, or discuss any matter relating in any way to this RFQ with any Space Florida employee, board or committee member, or any non-employee appointed by Space Florida to evaluate or to recommend selection of a firm under this RFQ. Any such may result in disqualification from consideration for award of this RFQ.

2. Questions may be asked regarding the RFQ process or the Project. Submission of all questions through e-mail to the Director of Contracts is required. Questions should be emailed to Annette O'Donnell at aodonnell@spaceflorida.gov. No answers given in response to questions submitted shall be binding upon this solicitation process unless released in writing on Space Florida's website. **The deadline for the Space Florida Director of Contracts to receive questions is on or before January 25, 2019 at 2:00 PM.**

SUBMITTAL REQUIREMENTS

On or before the specific date and time, firms interested in providing the requested professional services shall submit **one (1)** printed original and **one (1)** electronic copy (tabbed pdf format) on a thumb drive. **DO NOT** include financial statement information in the electronic copy.

DELIVERY OF QUALIFICATIONS PACKAGE

1. All printed qualifications packages, whether mailed or delivered in person, shall be submitted neatly organized in bound files with divider tabs. Qualifications packages shall be submitted in a single sealed envelope or box that clearly bears on the outside, the title of the solicitation as identified below, due date and time, and the firm's name, address and telephone number.

QUALIFICATIONS PACKAGE FOR:	Shuttle Landing Facility Utility Corridor Project for SPACE FLORIDA
QUALIFICATIONS NUMBER:	RFQ-01-0-2019
QUALIFICATIONS DUE DATE:	February 22, 2019 @ 2:00 PM, EST
QUALIFICATIONS PACKAGE FROM:	(Name of Firm)
CONTACT:	(Name of Person representing Firm)
CONTACT PHONE & E-MAIL:	(Phone number & e-mail address of Contact)

Deliver To: **Annette O'Donnell**
Space Florida
505 Odyssey Way, Suite 300
Exploration Park, FL 32953

2. Hand-carried packages must be turned in on or before the deadline to the desk on the first floor of the Space Life Sciences Lab, 505 Odyssey Way, Exploration Park, Florida 32953. Mailed packages should be mailed to Space Florida, 505 Odyssey Way, Suite 300, Exploration Park, Florida 32953, Attention Annette O'Donnell.

3. The responsibility for delivering the qualifications package to Space Florida on or before the stated time and date is solely the responsibility of the firm. Space Florida is not responsible for delays caused by the mail service or any other occurrence. Delivery of a package to any Space Florida location other than those listed above does not constitute official receipt by Space Florida.

4. Under no circumstances will late packages be scored. Firms shall not include information or responses to qualifications requests for more than one project in any one envelope or box.

5. Failure to provide the required copies and information may result in the qualifications package not being considered. Each firm should ensure that they have received and read any/all addenda and amendments to this process before submitting its qualifications package. All questions/answers and addenda are issued through Space Florida's website and posting on DemandStar.

ECONOMY OF PRESENTATION

Qualifications packages shall be prepared simply and economically, providing a straightforward, concise description of the firm's capabilities to satisfy the requirements of this RFQ. Submittals shall be indexed by subject, typed on letter size paper and individually bound. Fancy bindings, colored displays, and promotional material are not requested or desired. Elaborate and verbose proposals are discouraged. Special and elaborate printing of proposals beyond that which is normal for the firm's profession, is discouraged. Information in addition to that specifically requested (i.e. videotapes, photographs, in-depth firm history, lengthy and repetitive resumes, etc.) is strongly discouraged. The information requested should be submitted in a concise, easy-to-read format. Emphasis in each qualifications package must be on completeness and clarity of content. To expedite the evaluation of qualifications packages, it is mandatory that firms follow the format and instructions contained herein. Space Florida is not liable or responsible for any costs incurred by any firm in responding to this RFQ including, without limitation, costs for presentations and/or demonstrations if requested. Qualifications packages that do not comply with the instructions herein will not be considered. All information received will be maintained with the project file and cannot be returned.

QUALIFICATIONS PACKAGE INSTRUCTIONS

1. The firm must prepare its qualifications package in accordance with the instructions outlined in this section. If the firm's qualifications package deviates from these instructions, such qualifications package may, in Space Florida's sole discretion, be rejected. In the instance where a specific requirement(s) may not apply to the project in question, a statement must be inserted at the tab location stating the reason(s) of non-applicability.

2. Space Florida emphasizes that the firm should concentrate on the accuracy, completeness, and clarity of content.

3. To the greatest extent possible, each section shall be written on a stand-alone basis so that its contents may be evaluated with a minimum of cross-referencing to other sections of the qualifications package. Information required for evaluation of qualifications, which is not found in its designated section, will be assumed to have been omitted from the qualifications package.

4. Glossary of Abbreviations and Acronyms – Each section shall contain a glossary of all abbreviations and acronyms used, with an explanation for each. If no abbreviations and/or acronyms are used, then a glossary is not required.

5. Page size shall be 8.5 x 11 inches, not including foldouts. Pages shall be single-spaced, single-sided. Font shall be Times New Roman, and the text size shall be 11 point. Use at least three-quarter (3/4) inch margins on all sides. Pages shall be numbered sequentially. Maximum number of pages shall not exceed 200 pages, including tables of content, text, photos, charts, glossaries and appendices. Covers and backs will not be considered part of the page count. Divider tabs will not count as pages provided no additional information or company propaganda is included on those pages.

6. Legible tables, charts, graphs and figures shall be used wherever practical to depict organizations, systems and layouts, implementation schedules, plans, etc. These displays shall be

uncomplicated, legible and shall not exceed eleven (11) by seventeen (17) inches in size. Foldout pages shall fold entirely within the section, and count as two pages. Foldout pages may only be used for large tables, charts, graphs, diagrams and schematics; and not for pages of text.

7. Binding and Labeling – All sections of the qualifications package should be bound, with section tabs, which shall permit the qualifications package to lie flat when opened. Staples shall not be used.

8. Trade secrets and information confidential and exempt from Subsection 119.07(1) of the Florida Statutes and Subsection 24(a) of Article I of the Florida Constitution, is not solicited nor desired, as information to be submitted with qualifications packages. The Florida Statutes and the State Constitution govern whether information in a qualifications package is confidential or exempt from the Public Records Act. If information is submitted in the qualifications package which the firm deems to be a trade secret or confidential and exempt from the Public Records Act, the information shall be submitted with the qualifications package in a **separate, clearly marked envelope referencing the specific statutory citation for such exemption.** Submitted qualifications packages which are marked "confidential" (or other similar language) in their entirety or those in which a significant portion of the submitted qualifications package is marked "confidential" may be deemed non-responsive by Space Florida. Space Florida is not obligated to agree with the firm's claim of an exemption and, by submitting a qualifications package, the firm agrees to be responsible for defending its claim that each and every portion of the separately marked information is exempt from inspection and copying under the Public Records Act. The firm agrees that it shall protect, defend, and indemnify, including attorney's fees and costs, Space Florida for any and all claims and litigation (including litigation initiated by Space Florida) arising from or relating to the firm's claim that the separately marked portions of its reply are not subject to disclosure. If the firm fails to separately mark portions of its qualifications package or marks its qualifications package "confidential" (or other similar language) in its entirety, Space Florida is authorized to produce the entire document, data or record submitted by the firm in responding to a public records request.

QUALIFICATIONS PACKAGE TABBED SECTIONS

Space Florida suggests a careful review of the qualifications and experience requested in this RFQ. The scoring on the RFQ will be specific for each qualification requested. If the firm does not have the qualifications, the score in the RFQ process will so reflect.

Tab 1 **General Information and Table of Contents. (Not scored)**
Provide general information of the firm including the contact person, address, phone, facsimile and e-mail, not-to-exceed 1 single-sided page. Any addenda provided shall be noted on this page.

Tab 2 **Letter of Introduction. (1 point)**
Provide a brief profile of the firm, including a brief history of the company which clearly identify the following in tabular or bullet points:

1. Principal or Corporate office location.
2. Location of office which will be responsible for implementation of this Contract.
3. Location of other offices from which resources may be drawn.
4. Length of time the firm has been in business under its current name and date.
5. Former names of the firm and the years in business under each.
6. State if the firm is a corporation, limited liability company, partnership, individual, joint venture or other.

7. State the date of incorporation or date of organization.
8. Name the corporate officers, members or general partners.

Not to exceed 2 single-sided pages maximum.

Tab 3 Qualification Data – Similar Experience. (25 points)

Proposers must demonstrate a minimum of five (5) completed examples that they have performed construction management at-risk services on for the last seven (7) years. At least 2 of the 5 projects presented must have a final contract value of at least $1,000,000.00. List the projects in priority order, with the most current project first. For each of the listed projects, provide the following information:

1. Name and location of the project including a project picture.
2. Project type – new, renovation, refurbishment.
3. Project owner's representative name, address, and current phone number and e-mail.
4. Project Status – Percent complete/date completed/anticipated completion date.
5. Project data – gross area of construction, type of construction, and a description of roads, sitework and utilities included.
6. Cost of project – original cost, final cost, amount of additive change orders. Identify if there were any Owner Direct Purchases (ODP's) for the project.
7. Listing of the firm's key personnel on the listed project and note those who would be assigned to Space Florida's project.
8. The name, address and current telephone number and e-mail of the project's designer.

Tab 4 Methodology. (10 points)

Outline the firm's methodology for the following:

1. Describe the firm's approach to conceptual budgeting, budget validation, cost estimating and change order review process. Show examples of cost control formats. Identify how the firm provides Value Engineering innovations for cost efficiencies and life cycle cost savings.
2. Describe the firm's approach to scheduling. Give an example of how the firm resolves scheduling challenges.
3. Describe the way the firm controls quality during the pre-construction and construction phases. Provide specific examples of techniques used previously to maintain quality.
4. Describe the types of record keeping and reporting systems used by the firm to manage the project and provide examples.
5. Describe the firm's approach to bidding and preparing a Guaranteed Maximum Price Proposal and how the firm plans to promote local participation.

Tab 5 Local Knowledge. (15 points)

List a minimum of three (3) completed relevant projects performed within Brevard County, the State of Florida and/or on NASA or Cape Canaveral Property within the last seven years with at least one project with a total construction value of $1,000,000.00 or more. List the projects in priority order, with the most current projects first. For each of the listed projects, provide the following information:

1. Name and location of the project including a project picture.
2. Project type – new, renovation, refurbishment.
3. Project owner's representative name, address, and current phone number and e-mail.
4. Project Status – Percent complete/date completed/anticipated completion date.

5. Project data – gross area of construction, type of construction, roads, sitework and utilities included.
6. Cost of project – original cost, final cost, amount of additive change orders. Identify if there were any Owner Direct Purchases (ODP's) for the project.
7. Listing of the firm's key personnel on the listed project and note those who would be assigned to Space Florida's project.
8. The name, address and current telephone number and e-mail of the project's designer.
9. Identify as a percent of the total contract value the amount of local participation used on each project. Local being defined as Brevard County.

Tab 6 **Current Workload. (5 points)**

List each project currently under contract or pending contract including contracts as a consultant to another firm. Describe how the firm will meet its current contract obligations if the firm is selected. Identify where key personnel assigned to this project are currently working.

Tab 7 **Organizational Chart. (8 points)**

Provide an organization chart as it relates to the project indicating key personnel and their responsibilities for this project. Organizational chart must show the relationship of Space Florida to the Construction Manager and the relationship to the subcontractor level. Include any Consultants and their services which would not be performed in-house and include their location. It should be understood that it is the intent of Space Florida to insist that staff indicated actually execute the Project.

Tab 8 **Resumes. (10 points)**

List resumes of key individuals to be involved in the various aspects of the Project and an explanation of each individual's role in the Project from Project Executive, Project Manager, Superintendent, Safety Officer and any other lead role for the project. **For each individual listed, provide the following information:**

1. Name of individual.
2. Years with current firm.
3. Total years in the industry.
4. Current title with company.
5. Current place of residence.
6. Any licenses, credentials or certifications relative to this project.
7. Role assigned to a Space Florida project and their assigned location.
8. Project currently assigned to and anticipated completion date.
9. Past project experience with current firm for past 10 years.
10. Past project experience with other firms if they have not been employed by the current firm for the past 10 years and the role of responsibility on that project.

Tab 9 **Licenses. (Not scored, but required)**

Firm must show proof that they are licensed to do business in Florida and Brevard County. Firms not showing proof that they are licensed to do business in Florid and Brevard County will not be scored.

Tab 10 **References. (10 points)**

Provide a minimum of three (3) reference letters from different owner representatives for different projects, preferably local, that the firm has provided / is providing professional services which are similar in scope to this RFQ. Reference letters shall be current, dated within

three (3) years of this solicitation. The reference from the owner representative must be from different owners, provided on their letterhead, and include details regarding the firm's role on the project. Letters from Space Florida staff shall not be considered.

Provide a minimum of two (2) reference letters from different subcontractors or vendors from different projects that the firm has worked with in the last three (3) years of this solicitation. The reference from the subcontractors and vendors must be from different projects, provided on their letterhead.

Tab 11 Litigation. (4 points)

Identify all litigation or arbitration and/or pending litigation or arbitration the firm or consultant's firm has been a party to legal action (including arbitration, administrative proceedings, etc.) or lawsuits during the last five (5) years involving a client, contractor or subcontractor for claims. Include a brief legal description of the dispute and its current status. Describe the particular circumstances giving rise to the dispute and the actions which the firm took to attempt to settle the matter prior to and after suit being filed.

Identify if the firm as ever been removed or relieved from a contract or duties on a project. Identify if the firm has ever defaulted on a contract or had a bond recalled. Identify whether the firm has ever been assessed liquidated damaged or delay damages.

Identify any disputes or claims in which the firm has been a party to and was resolved without legal action during the last five (5) years.

Identify the value of any monetary settlements reached from any of the above.

Tab 12 Safety. (7 points)

Describe the firm's approach to safety. List any OSHA Recordable safety violations or incidents recorded and non-recorded that have occurred within the last 5 years. Provide copies of the OSHA 300A (Summary of Work Related Injuries and Illnesses) Form for the last 3 years.

Identify if the firm has a drug-free workplace policy.

Tab 13 Form of the AIA Contract. (4 points)

The form of the AIA Contract to be used for the Project is attached hereto as Attachment "A". The Firm must include a statement that it has reviewed the AIA Contract and that it agrees to the terms and conditions in the AIA Contract. **The form, terms and conditions in the AIA Contract and the supplements to the Contract are not negotiable**.

Tab 14 Insurance. (Not scored, but required)

Attach evidence of required insurance coverage or proof of insurability in the amounts defined in the Insurance Section of the form of the AIA Contract attached hereto as Attachment "A". **Final insurance forms must contain the correct solicitation and/or project number and Space Florida contact person.**

Tab 15 Bonding Capacity. (Not scored, but required)

Provide a letter of intent from a Surety Company indicating the firm's bond ability for this project (unconditional performance and payment bond) for an amount in excess of Twenty-Five Million Dollars ($25,000,000.00). To be acceptable to Space Florida as surety for construction bonds, a surety company shall comply with the following provisions:

1. The Surety Company must be admitted to do business in the State of Florida.
2. The Surety Company shall have been in business and have a record of successful continuous operations for at least five (5) years.
3. The Surety Company shall have at least an A.M. Best Company Policyholder's Rating of 'A' and Financial Size Category of Class 'A' and Financial Size Category of Class 'VIII' or higher.

Tab 16 <u>Business Structure</u>. (1 point)
Submit a copy of State of Florida Department of State records indicating that the corporation or company is authorized to do business in Florida, when the corporation or limited liability company was organized, corporation or company number, and date and status of most recent annual report. Firms submitting as joint ventures shall submit a copy of their joint venture agreement. Prior to contracting with Space Florida, owners of all forms of business doing business in the State of Florida, except sole proprietorships, must register with and be in good standing with the Florida Department of Corporations. A foreign company or corporation cannot transact business in the State of Florida until it obtains a certificate of authority from the Department of State.

Tab 17 <u>Non-Collusion Clause</u>. (Not scored, but required)
Complete the non-collusion clause form included in this package.

Tab 18 <u>Public Entity Crimes</u>. (Not scored, but required)
Complete the sworn statement on public entity crimes form included in this package.

Tab 19 <u>Scrutinized Company Statement</u>. (Not scored, but required)
Complete Scrutinized Company Statement form included in this package.

Tab 20 <u>Financial Statement</u>. (Not scored, but required)
The firm shall submit in a separate sealed envelope an updated financial statement for the firm, prepared within the last quarter, itemizing present financial resources, liabilities and capital equipment. Note that financial statements provided for a road or any other public works project is exempt from Section 119.07(1) of the Florida Statutes and Section 24(a), Art. I of the State Constitution.

*****TOTAL NUMBER OF AVAILABLE POINTS: 100*****

<u>SELECTION PROCESS</u>

1. Space Florida staff members that have the knowledge and expertise with this scope of work, along with other personnel shall serve on a selection committee. Space Florida may appoint individuals that are not employees to serve on the selection committee. The selection committee will review all qualifications packages timely received and shall score the qualifications packages in accordance with the criteria listed in this RFQ. In addition to the materials provided in the written responses to this RFQ, Space Florida may request additional material, information, references, interviews or presentations from the firm(s) submitting qualifications packages. Space Florida may decide to conduct interviews instead of having formal presentations with selected firms, should it be required or warranted. Pursuant to Section 287.055 of the Florida Statutes, Space Florida shall evaluate current statements of qualifications and performance data on file with Space Florida (if any), and shall conduct discussions with, and may require presentations by, no fewer than three (3) firms regarding their qualifications, approach to providing the services, and ability to furnish the required services. Discussions may be held

between the selection committee and the firms selected for interview based upon data submitted by each firm. Firms will be notified in writing as to whether or not they have been selected and if an interview or oral presentation is required.

2. Space Florida, at its sole discretion, may ask any firm to make an oral presentation and/or demonstration without charge to Space Florida. Space Florida reserves the right to require any firm to demonstrate to the satisfaction of Space Florida that the firm has the fiscal and technical ability to furnish the service(s) or product(s) as proposed. The demonstration must satisfy Space Florida, and Space Florida shall be the sole judge of compliance.

3. Space Florida reserves the right to conduct discussions with any firm who has a realistic possibility of Contract award.

4. Firms are cautioned not to assume that they will be asked to make a presentation and should include all pertinent and required information in their original qualifications package.

5. Following the interviews, the firms will be evaluated, based on their submission, references, and presentation. A final ranking of firms will be determined based on their interview or presentation.

6. Once the selection committee has ratified the final rankings, Space Florida may engage the first ranked firm in negotiations for purposes of executing a contract. In doing so, Space Florida shall determine and negotiate compensation that is fair, competitive, and reasonable for the services to be supplied.

7. Should Space Florida be unable to negotiate a satisfactory contract with the first ranked firm, at a price Space Florida determines to be fair, competitive and reasonable, Space Florida shall formally terminate negotiations, and negotiate with the second ranked firm, and so on, until an agreement is reached with a firm, or at any time may terminate negotiations and undertake a new solicitation.

GUIDELINES – INTERVIEWS/ORAL PRESENTATIONS

The selection committee may require oral presentations of the short-listed firm who will be notified of the schedule for the presentation, questions and answers, and setup and breakdown. Interviews/Oral Presentations will be scored on the points listed below and will not be combined with the previous score, and the previous score will *not* carry forward. The selection committee will select the firm that scores the highest for the interviews/oral presentations as the first-ranked firm with which to begin negotiations.

Interview agendas will be entirely at the discretion of the prospective firm with an emphasis delineating why/how the firm's strength/performance on three (3) similar projects positively impacted the success of the project with regards to the following subjects:

1. **Qualifications of Prospective Firms to Provide Required Services- (30 points) --** Relevant experience in projects with which the firm has worked directly or that the prospective firm has worked on through a sub-contract in the last five years. Provide contact name, address, phone number and fax number.

2. **References- (10 points) --** The firm must demonstrate a positive relationship with prior clients on similar projects. The firm shall discuss the details of the written references included in their submittal and discuss their strategy to provide a positive working relationship with Space Florida. This strategy must include three (3) actual examples of how the firm has demonstrated their

cooperation with other clients. Space Florida reserves the option of contacting any of the references to confirm information provided.

Space Florida staff will provide input on a firm's past work performance and information from Space Florida Project Managers if available.

3. **Overall Approach and Methodology- (30 points) –** The firm should demonstrate verbally and/or graphically, its plan for performing the required services, documenting the services to be provided and showing the interrelationship of all parties. Emphasis will be made towards scheduling, cost control, Value Engineering, quality control, safety, local knowledge and document control.

4. **Experience and Qualifications of Personnel- (30 points) --** The firm shall express the general and specific project related experience and capability of in-house staff and sub-consultants and their functions as it relates to this RFQ.

   The firm(s) should name the actual staff to be assigned to this project, describe their ability and experience, and portray the function of each within their organization and their proposed role on this project. Proposed project staff should be present for oral presentations and/or interview.

   If a joint venture, or prime/subcontractor arrangement of two (or more) firms, the firm must indicate how the work shall be distributed between the associated firms. Describe how the organizational structure will ensure orderly communications, distribution of information, effective coordination of activities and accountability.

GENERAL TERMS AND CONDITIONS

1. All information submitted by a firm will become part of the project file and, unless otherwise exempt or confidential in accordance with Florida law, will become a public record. All qualifications packages and accompanying documentation will become the property of Space Florida and will not be returned.

2. Space Florida has the sole discretion and reserves the right to cancel this RFQ, to reject any and all submittals, to waive any and all informalities and/or irregularities, or to re-advertise with either the identical or revised specifications, if it is deemed to be in the best interest of Space Florida to do so.

3. Space Florida reserves the right to make award to the response deemed to be most advantageous to Space Florida.

4. Space Florida reserves the right to award the contract to the next most qualified firm if the successful firm does not promptly begin the contracted services or if an acceptable fee cannot be negotiated.

5. The successful firm shall not discriminate against any person in accordance with federal, state, or local laws.

6. Space Florida reserves the right not to award a contract. Space Florida reserves the right to divide the scope into multiple projects and procure each individual project separately.

7. All material submitted becomes the property of Space Florida and may be returned only at Space Florida's option. Space Florida has the right to use any or all ideas presented in any reply to this

Request for Qualifications. Firms will be notified in writing as to whether or not they have been selected for this contract.

8. ***A firm is solely responsible for any cost or expense incurred in responding to this RFQ.***

9. By submitting a qualifications package for this solicitation, the firm agrees to these General Terms and Conditions.

NON-COLLUSION CLAUSE

The firm certifies that this qualifications package is being submitted independently and free from collusion. The individual on behalf of the firm shall disclose below, to the best of his or her knowledge, any Space Florida officer or employee, or any relative of any such officer or employee as defined in Section 112.3135(1), Florida Statutes, who is an officer or director, of, or has a material interest in the firm's business and who is in a position to influence this procurement. Any Space Florida officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, presumed, for purposes hereof, to be in a position to influence this procurement. For purposes hereof, a person has a material interest in he or she directly or indirectly owns more than 5 percent of the total assets or capital stock of any business entity, or if he or she otherwise stands to personally gain if the contract is awarded to this proposer.

Failure of a firm to disclose any relationship described herein shall be reason for disqualification and/or termination in accordance with the provisions of Space Florida.

NAME	RELATIONSHIPS
_____	_____
	_____
	_____
_____	_____
	_____
	_____

If the firm does not indicate any relationship by leaving the above section blank, it shall be deemed to be an affirmation by the Proposer that no such relationship exists.

_____	_____
Signature	Company Name
_____	_____
Print Name of Certifying Official	Business Address
	_____
	City, State, Zip Code

STATEMENT PURSUANT TO SECTION 287.133(3)(a) of the FLORIDA STATUTES ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED BY A PERSON AUTHORIZED TO SIGN ON BEHALF OF THE FIRM.

1. This statement is submitted to Space Florida,
   by _____
   (print individual's name and title)
   for _____
   (print name of entity submitting sworn statement)

   whose business address is

   _____

   _____.

2. I understand that a "public entity crime" as defined in Section 287.133(1)(g) of the Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the united States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or conviction" as defined in Section 287.133(1)(b) of the Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Section 287.133(1)(a) of the Florida Statutes, means:

   a. A predecessor or successor of a person convicted of a public entity crime; or

   b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Section 287.133(1)(e) of the Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business

with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.)

_____ Neither the entity submitting this sworn statement nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017 OF THE FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

_____
(Signature)

Florida Statutes:
287.135

VENDOR CERTIFICATION REGARDING SCRUTINIZED COMPANIES LISTS

Respondent Vendor Name: _____

Vendor FEIN: _____

Vendor's Authorized Representative Name and Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____

Email Address: _____

Section 287.135, Florida Statutes, prohibits agencies from contracting with companies for goods or services of $1,000,000 or more, that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Both lists are created pursuant to section 215.473, Florida Statutes.

As the person authorized to sign on behalf of Respondent, I hereby certify that the company identified above in the section entitled "Respondent Vendor Name" is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney's fees, and/or costs.

Certified By: _____

who is authorized to sign on behalf of the above referenced company.

Authorized Signature Print Name and Title: _____

Date: _____

ATTACHMENT A
FORM OF THE AIA CONTRACT

AIA® Document A133™ – 2009

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

AGREEMENT made as of the day of _____ in the year 20___
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status and address)

Space Florida, an independent special district, a body politic and corporate, and a subdivision of the State of Florida
505 Odyssey Way, Suite 300
Exploration Park, FL 32953
Attn: _____
_____@spaceflorida.gov
321-_____ x_____
321-_____ cell

and the Construction Manager:
(Name, legal status and address)

_____

for the following Project:
(Name and address or location)

_____

The Architect:
(Name, legal status and address)

_____

The Owner's Designated Representative:
(Name, address and other information)

_____

The Construction Manager's Designated Representative:
(Name, address and other information)

_____

The Architect's Designated Representative:
(Name, address and other information)

_____

The Owner and Construction Manager agree as follows.

Init.
/

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 2.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 1.3 General Conditions

For the Preconstruction Phase, revised AIA Document A201™–2007, Revised General Conditions of the Contract for Construction, containing certain revisions shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in revised AIA Document A201™–2007, Revised General Conditions of the Contract for Construction, which document is incorporated herein by reference. The term "Contractor" as used in A201–2007 shall mean the Construction Manager and the term "Contract Sum" shall mean the lesser of the GMP or the Cost of the Work plus the Construction Manager's Fees.

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ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 During the preconstruction phase, the Contractor shall perform the services described on Exhibit "A" and the services in Article 2. The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall provide value-engineering recommendations.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and

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coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. The Construction Manager shall have the responsibility to build the entire Project in accordance with the Drawings and Specifications.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents. The Construction Manager shall comply with the Americans with Disabilities Act for all Work to be performed by Construction Manager under this Agreement; however, this shall not make Construction Manager liable for design issues.

§ 2.2 Guaranteed Maximum Price Proposal and Contract Time

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's review and acceptance. The Guaranteed Maximum Price ("GMP") in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, including contingencies described in Section 2.2.4, and the Construction Manager's Fee.

§ 2.2.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Guaranteed Maximum Price for such further development consistent with the Contract Documents and reasonably inferable therefrom. The costs for such further development, including the Cost of the Work for same, shall be included in the GMP. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 2.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

.1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;

.2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 2.2.2, to supplement the information provided by the Owner and contained in the Drawings and Specifications;

.3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, contingency, general conditions costs individually itemized, and the Construction Manager's Fee;

.4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based;

.5 A date by which the Owner must accept the Guaranteed Maximum Price; and

.6 Copies of all bids, take-off quantities, quotes, and prices.

Additionally, copies of executed subcontracts and supplier contracts shall be provided by Construction Manager to Owner within 3 days of the subcontractor's or supplier's signature

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§ 2.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a sum agreed to by the Parties for contingency for the Construction Manager's use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order, with all unspent contingency sums accruing to the benefit of the Owner. At Final Completion, the GMP shall be reduced by Change Order by the amount of the unspent contingency sum. Expenditure of contingency funds by the Construction Manager shall be done only with written approval of the Owner.

§ 2.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 2.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 2.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the Owner provides prior written authorization for such costs.

§ 2.2.8 The Owner shall authorize the Architect to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Guaranteed Maximum Price Amendment and the revised Drawings and Specifications.

§ 2.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 2.2.10 The Owner may, at its sole discretion and based upon its sole judgment, upon receipt of the Construction Manager's GMP Proposal, do any of the following singularly or in any combination: (i) indicate its acceptance of the GMP proposal; (ii) reject the GMP proposal; (iii) negotiate the price and terms of the GMP Proposal; (iv) terminate the Project; (v) terminate this Agreement for convenience pursuant to Article 14 of the revised AIA A201 General Conditions, and/or (vi) seek bids, proposals, or qualifications from other contractors and construction managers and proceed to award the Work to and construct the Project using such other entities. If the Owner rejects the Construction Manager's GMP proposal, Owner shall have no further obligations pursuant to this Agreement; except that Owner shall pay for preconstruction services properly performed and delivered by the Construction Manager to Owner through the date of the termination notice and in accordance with the terms of this Agreement.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.2 Administration

§ 2.3.2.1 Construction Manager shall be responsible for conducting and managing the subcontractor selection process, arranging and conducting pre-bid conferences, distributing bid documents to subcontractors, communicating with subcontractors on clarifications , and distributing Architect's addenda to the bid documents to subcontractors. Construction Manager shall obtain bids on all of the Work, including obtaining third party bids on any Work that Construction Manager desires to self-perform. Construction Manager shall prepare and submit its own bids on any

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Work it intends to self-perform. If the Construction Manager elects to self-perform Work, after written request to Owner, there shall be established a guaranteed maximum price that shall be subject to the prior written approval of Owner, for those components of the Work that are self-performed that shall be less than or equal to the bids obtained from third party subcontractors. Those portions of the Work that the Construction Manager does not perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, from itself, and from suppliers of materials or equipment fabricated especially for the Work and shall deliver all such bids (without redaction or analysis) to the Owner and the Architect within 24 hours of receipt by the Construction Manager. Construction Manager shall then analyze such bids and prepare a bid recap table. After completion of such analysis, the analyzed bids for each bid package shall be delivered to the Owner all on the same day. The Owner shall then determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable and substantiated objection. The Construction Manager shall attempt to obtain a minimum of three (3) bids for each subcontracted portion of the Work.

§ 2.3.2.2 If the Guaranteed Maximum Price has been established and when a specific bidder (1) is recommended to the Owner by the Construction Manager, (2) is qualified to perform that portion of the Work, and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Contract Time and the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount and time requirement of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 2.3.2.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Construction Manager shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Section 6.11 below.

§ 2.3.2.4 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.5 The Construction Manager shall schedule and conduct weekly meetings with the Owner, Architect, Construction Manager, and appropriate Subcontractors to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.6 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201–2007 Revised General Conditions.

§ 2.3.2.7 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 2.3.2.8 The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 2.3.2.7 above.

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§ 2.4 Professional Services
Section 3.12.10 of A201–2007 Revised General Conditions shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials
Section 10.3 of A201–2007 Revised General Conditions shall apply to both the Preconstruction and Construction Phases.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems sustainability and site requirements.

§ 3.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services

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under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 3.2 Owner's Designated Representative
The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2007 Revised General Conditions, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 3.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 3.3 Architect
The Owner shall retain an Architect to provide services, duties and responsibilities as described in the Owner's agreement with the Architect, including any additional services requested by the Construction Manager and prior approved in writing by Owner that are necessary for the Preconstruction and Construction Phase services under this Agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
§ 4.1 Compensation
§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

The Preconstruction Fee is a lump sum of **$**_____ and shall be paid monthly in proration to the percentage of Preconstruction Work completed in the prior 30 days. This fee includes all reimbursable costs to be incurred by Construction Manager during the preconstruction phase. A breakdown of the Preconstruction Fee is attached as Exhibit "B". The Preconstruction Fee is a lump sum and shall not be adjusted regardless of the duration of the design phase and preconstruction phase of the Project and any delays or extensions of same.

(Paragraphs deleted)
§ 4.2 Payments
§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 4.2.2 Payments are due and payable thirty (30) days from the date the Construction Manager's invoice is received by the Owner. Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid sixty (60) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

Interest shall be payable per Florida Statute Chapter 255.073(4)..

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§ 5.1.1 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

Construction Manager's Fee shall be a fixed fee equal to ____**%** of the Cost of the Work, but subject to adjustment for Change Orders and Construction Change Directive Work. However, if the actual Cost of the Work plus the Construction Manager's Fee exceeds the GMP, then the Fee shall be reduced appropriately so that the total of the

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actual Cost of the Work plus the Construction Manager's Fee does not exceed the GMP. Contractor shall also be entitled to the additional Overhead Fee as defined in **§ 6.1.3** and the additional Bond Fee defined in **Article 8.** Construction Manager's Fee shall not be charged on the Overhead Fee or the Bond Fee,

§ 5.1.2 The method of adjustment of the Construction Manager's Fee for changes in the Work:

For Change Orders or Construction Change Directive Work, the amount for fee added or deducted shall be _____**%** of the Cost of the Work that is added or deducted, respectively. Such fee includes all profit. The Overhead Fee and Bond Fee shall also be charged to Change Orders. The change order fee shall not be charged on the Overhead Fee or the Bond Fee. No general conditions costs shall be added, except that if the change includes an increase in the Contract Time, then extended daily general conditions costs will be added in accordance with Section 8.3 of the revised AIA A201 General Conditions. However, Construction Manager's Fee shall not be reduced for deductive changes for materials under the Sales Tax Savings Program described in Section 11.5.2 of this Agreement except that fee on the amount of the sales tax saved shall be deducted.
.

§ 5.1.3 The amount of a Subcontractor's overhead and profit for increases or decreases in the cost of its portion of the Work shall be:

1. For Change Order Work or Construction Change Directives, the amount of a Subcontractor's overhead and profit for increases or decreases in the cost of its portion of the Work shall be _____ percent (____%) of the Cost of the Work that is added or deducted, respectively. Such fee includes all profit, overhead, general conditions costs, bond, and insurance costs of the Subcontractor, except that if the change includes an increase in the Contract Time, then extended daily general conditions costs will be added in accordance with Section 8.3 of the Revised A201 General Conditions and if the change includes an increase in general conditions staffing, then an increase for the costs of the additional staffing will be added. .

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed that stated in **§ 6.5.2.**

§ 5.1.5 Unit prices, if any:
(Identify and state the unit price; state the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)
To be determined in GMP Amendment		

§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, as it is amended from time to time. To the extent the total of the Cost of the Work the Preconstruction Fee, and the Construction Manager's Fee exceeds the Guaranteed Maximum Price, the Construction Manager shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.
(Paragraph deleted)
5.2.2 It is understood that no construction Work shall proceed without execution of a written GMP Amendment.

(Paragraph deleted)
§ 5.2.3 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 5.3 Changes in the Work

§ 5.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201–2007, Revised General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

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§ 5.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Section 7.3.3 of AIA Document A201–2007, Revised General Conditions of the Contract for Construction.

§ 5.3.3 n/a.

§ 5.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in the above-referenced provisions of AIA Document A201–2007 Revised General Conditions shall mean the Cost of the Work as defined in Sections 6.1 to 6.7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 5.1 of this Agreement.

§ 5.3.5 If no specific provision is made in Section 5.1.2 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 5.1.2 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean the actual costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 6.1.3 For Contractor's overhead costs, instead of actual overhead costs, the Cost of the Work shall include a separate overhead fee of _____**%** of the Cost of the Work ("Overhead Fee"), and only for the purposes of calculating such Overhead Fee and Contractor's Fee, the Cost of the Work shall not include such Overhead Fee.

§ 6.2 Labor Costs

§ 6.2.1 Wages of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops. Such costs shall equal the actual hourly cost of the personnel performing the Work billed on an hourly basis, not to exceed the maximum hourly rates listed in Exhibit "C".

§ 6.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval
(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify below, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

none

§ 6.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel (including Construction Manager's Project Manager) engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work. At the time of submitting its GMP Proposal, Construction Manager shall submit to the Owner for its approval, a list of supervisory and field office personnel, their duties on the Work and their respective pay rates and anticipated hours for the Project that will be assigned as a cost to be reimbursable. Time and wages beyond 40 hours per week for salaried personnel will not be reimbursed.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements,

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customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3. If Construction Manager proposes to use a percentage of labor costs instead of actual costs, then such percentage shall be proposed and negotiated at the time of the GMP Amendment.

§ 6.2.5 Relocation and temporary out of town living costs of personnel, but only if approved by Owner in writing.

§ 6.3 Subcontract Costs
Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.

§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction
§ 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items
§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. Rates of Construction Manager or related person or entity-owned equipment and quantities of equipment shall be subject to the Owner's prior approval. The total rental cost of any piece of equipment for the duration of the Project that the Construction Manager or any related person or entity owns shall not exceed 75% of the fair market value of that equipment at the commencement of the rental period. Where a rental agreement contains an option to purchase and this option is exercised, the equity accrued shall be credited to the Owner against the total rental cost of that equipment on the Work. Prior to beginning the Work, the Construction Manager shall submit a list to the Program Manager of rental equipment owned by the Construction Manager or a subsidiary of the Construction Manager indicating the fair market value at commencement of the Work and the proposed rental rates. The Construction Manager shall attach to each monthly Application for Payment an itemized list of rental equipment owned by the Construction Manager or his subsidiaries and the applicable rates for such equipment used on the Work during that period.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 6.5.4 Costs of document reproductions, postage and parcel delivery charges. There shall be no markup on these expenses.

§ 6.5.5 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 6.5.7 Fuel used by job site equipment directly related the Project.

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§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 6.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable.

§ 6.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract Documents to pay.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those to be provided by the Owner and those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201–2007 Revised General Conditions or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201–2007 Revised General Conditions or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

§ 6.6.6 Small tools shall be treated as a Cost item and are defined as those tools costing five hundred dollars ($500.00) or less. A record showing the disposition of these tools is to be on file at the Contractor's office on the project site. Ownership of small tools not consumed during construction shall remain with the Owner upon completion of the Project.

§ 6.6.7 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 6.6.8 n/a.

§ 6.6.9 In lieu or renting certain items of equipment, machinery and tools, valued at more than five hundred dollars ($500.00) from the Contractor or other third parties, the Owner reserves the right to have those items purchased and maintained as a Cost of the Work. A record showing the disposition of these items is to be on file at the Contractor's office on the project site. Ownership of the items not consumed during construction shall remain with the Owner upon completion of the Project.

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201–2007 Revised General Conditions.

§ 6.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2007 Revised General Conditions or other Conditions of the Contract which may

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require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8, or unless such costs cause the GMP to be exceeded.

§ 6.8 Costs Not To Be Reimbursed

§ 6.8.1 The Cost of the Work shall not include the items listed below:

.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;

.2 Expenses of the Construction Manager's principal office and offices other than the site office;

.3 Overhead and general expenses, except as may be expressly included in Sections 6.1 to 6.7;

.4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;

.5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;

.6 Any cost not specifically and expressly described in Sections 6.1 to 6.7;

.7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and

.8 Costs for services incurred during the Preconstruction Phase, other than the lump sum Preconstruction Fee.

.9 Payments to Contractor's employees over and above their regular pay (bonuses, incentive pay, profit sharing, severance pay, etc.), including salary increases not identified in the Contractor's bid proposal.

.10 Technology, Data Processing, Project Specific Web Sites, or Project Management System Cost incurred by the Contractor in preparing the Project Schedule, Payroll, Accounting, Project Cost Reports or Project Status Reports and any other reports necessary to the progress of the Work.

.11 Any fees paid to Contractor organizations (AGC, ABC, etc.).

.12 Construction Manager's business license.

.13 Recruitment or training costs of personnel, recruiting or sign up bonuses.

.14 Overtime expense of any salaried personnel.

.15 Except as provided in Section 6.7, any cost not specifically and expressly described in Section 6.

.16 Costs which would cause the Guaranteed Maximum Price to be exceeded.

.17 Any expenses for General Conditions costs that cause the total of General Conditions costs to exceed that set forth in the GMP Amendment.

.18 Bond costs for Construction Manager's subcontractors and suppliers.

.19 Facsimile transmissions and long-distance telephone calls, telephone service at the site, and petty cash expenses of the site office.

.20 Legal, mediation and arbitration costs, including attorneys' fees.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner. Trade discounts, commissions, volume discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is

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consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of five (5) years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 7.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the certified amount to the Construction Manager not later than the 5th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Owner receives the approved Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Construction Manager's Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 7.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

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§ 7.1.7 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values, less retainage of ten percent (10%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201–2007 Revised General Conditions;

.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing, less retainage of ten percent (10%);

.3 Add the Construction Manager's Fee, less retainage of ten percent (10%). The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.4 Subtract retainage of ten percent (10 %) from that portion of the Work that the Construction Manager self-performs;

.5 Subtract the aggregate of previous payments made by the Owner;

.6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

.7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007 Revised General Conditions.

§ 7.1.8 Except with the Owner's prior approval, payments to Subcontractors shall be subject to retention of not less than ten percent (10%). The Owner and Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the Construction Manager shall execute subcontracts in accordance with those agreements. At 50% completion of the Project, retainage shall be reduced to 5% for each subsequent progress payment in accordance with Florida Statutes Section 255.078. After the Project is 50% complete, the Contractor may request release of up to one-half of retainage previously withheld. At Substantial Completion, all retainage may be invoiced by Contractor and shall be released, except 150% of the value of Punch List Work, incomplete Work, and defective Work shall be withheld. Upon mutual agreement between Owner and Construction Manager and before the Project's Substantial Completion date, payment in full including release of applicable retainage may be made to the Construction Manager for a particular subcontractor's Work that is fully and satisfactorily completed, provided that the Construction Manager and Subcontractor provide a satisfactory complete release of all claims for such Work and provided that both have complied with all requirements for final payment in accordance with the Contract Documents.

§ 7.1.9 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 7.1.10 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.2 Final Payment

§ 7.2.1 Construction Manager shall submit its Final Pay Request within 45 days of Final Completion of the Project. Final payment, constituting the entire unpaid balance of the Contract Sum, less 150% of the estimated value of any punchlist, defective, or incomplete Work, shall be made by the Owner to the Construction Manager when

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.1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007 Revised General Conditions , and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment as well as a Contractor's Final Affidavit; and

.3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, approval of the Work by the Owner, compliance with the requirements of the A201-2007 Revised General Conditions, and Owner's completion of the audit of the Cost of the Work pursuant to **§ 7.2.2**.

§ 7.2.2 If the Owner optionally decides to proceed with an audit of the Cost of the Work, the Owner's auditors will review and report in writing on the Construction Manager's final accounting within 60 days after delivery of the final accounting to the Architect by the Construction Manager, which 60 day time period shall be reasonably extended in the event that the Construction Manager does not timely provide information requested within 3 days of the auditor's request or provides partial information requested. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201–2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201–2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201–2007 Revised General Conditions. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If the Construction Manager has participated in savings as provided in Section 5.2.1, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Construction Manager.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide bonds as set forth in Article 11 of AIA Document A201–2007.
(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)

Type of Insurance or Bond	Limit of Liability or Bond Amount ($0.00)
Insurance requirements are set forth below and in Revised AIA Document A201-2007 Revised General Conditions.	Bond requirements are set forth below.

The Construction Manager shall furnish unconditional bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum. **The bonds shall comply with Florida Statute Section 255.05;**

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however, "Conditional" Payment Bonds shall not be acceptable. Proper Power of Attorney shall accompany said bonds. Said bonds shall be delivered to the Owner. Construction Manager shall record the bonds in the public records of the County where the Project is located. No Work shall commence on the Project until the Notice of Commencement and copies of the Payment Bonds are recorded and certified copies thereof are posted at the Project site. Construction Manager shall charge a bond fee equal to the actual cost of the Bonds, but not to exceed _____% of the Cost of the Work ("Bond Fee"). Bond Fee shall not be charged on the Bonds, the Construction Manager's Fee, or on the Overhead Fee.

Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. The Contractor shall cause the commercial liability coverage required by the Contract Documents to include: (1) NASA, the United States Air Force, the United States Navy, Owner, the Designer and the Designer's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) NASA, the United States Air Force, the United States Navy, and Owner as an additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

Builder's Risk insurance shall include interests of NASA, the United States Air Force, the United States Navy, Owner, the Contractor, Subcontractors and sub-subcontractors in the Project.

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201–2007 Revised General Conditions. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007 Revised General Conditions, the method of binding dispute resolution shall be as follows:
(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[X] Litigation in a court of competent jurisdiction
(Paragraphs deleted)

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

Architect

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Establishment of the Guaranteed Maximum Price

§ 10.1.1 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1, 14.1.2, and 14.1.4 of A201–2007 Revised General Conditions.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be prorate equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. This payment shall be Construction Manager's sole remedy for such termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

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§ 10.1.3 If the Owner terminates the Contract pursuant to Section 10.1.1 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

.1 Take the Cost of the Work properly performed and incurred by the Construction Manager to the date of termination;

.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the percentage rate stated in Section 5.1; and

.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

If the Owner optionally accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 10.2 Termination Subsequent to Establishing Guaranteed Maximum Price

Following execution of the Guaranteed Maximum Price Amendment, this Agreement may be terminated as provided in the Revised AIA A-201-2007 Revised General Conditions.

(Paragraphs deleted)

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007 Revised General Conditions . In such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007 Revised General Conditions, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.3.5 of this Agreement.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007 Revised General Conditions.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 Revised General Conditions shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law and Venue

The Contract shall be governed by the law of the place where the Project is located. Venue for any dispute shall be exclusively in the State Courts in the County where the Project is located.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201–2007 Revised General Conditions, neither party to the Contract shall

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assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:

11.5.1 Any reference to AIA A201-2007 in this Agreement shall mean the Revised General Conditions AIA A201-2007 Revised General Conditions that are attached (also known as the "Revised General Conditions" or "Revised A201").

11.5.2 Sales Tax Savings Program. See requirements Revised General Conditions AIA A201-2007 Revised General Conditions.

11.5.3 Liquidated Damages. If the Construction Manager fails to substantially complete the work within the agreed upon Date of Substantial Completion set forth in GMP Amendment (including any extension granted by the Owner in writing), then the Construction Manager agrees to pay the Owner, as liquidated damages, a sum of money equal to the (Contract Sum * 10%)/365 per calendar day until Substantial Completion of the Work is actually achieved. Such amount is agreed upon as a reasonable measure of the damages that the Owner will sustain from the Construction Manager's failure to timely complete the Work. Owner and the Construction Manager recognize the delays, expense and difficulties involved in providing in an arbitration or judicial proceeding the actual loss suffered by the Owner if the Work is not completed on time and accordingly, instead of requiring such proofs, they agree upon the above-stated amount as liquidated damages for delay (but not as a penalty). The foregoing liquidated damages shall be in lieu of all other monetary remedies that the Owner shall have in the event of the Construction Manager's delay in completing the Project.

11.5.4 Owner shall be entitled to make any decision or approval required by this Agreement to made by Architect. Any decision of Owner shall supersede any decision of the Architect. Any time Construction Manager shall be required to notify or report to the Architect such notice or report shall be also be made to Owner.

11.5.5 Sovereign Immunity. Space Florida's limits of liability are set forth in Section 768.28 of the Florida Statutes, and nothing herein shall be construed to extend the liabilities of Space Florida beyond that provided in Section 768.28 of the Florida Statutes. Nothing herein is intended as a waiver of Space Florida's sovereign immunity under Section 768.28 of the Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to anything which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of Space Florida's obligations under this Agreement are limited to the payment of no more than the per person amount limitation and the aggregate contained in Section 768.28 of the Florida Statutes, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

In no event shall Space Florida be liable to Contractor for indirect, special, or consequential damages, including, but not limited to, loss of revenue, loss of profit, cost of capital, or loss of opportunity regardless of whether such liability arises out of contract, tort (including negligence), strict liability, or otherwise. Space Florida shall not assume any liability for the acts, omissions, or negligence of Contractor its agents, servants, employees, or subcontractors. In all instances, Contractor shall be responsible for any injury or property damage resulting from any activities conducted by Contractor.

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11.5.6 There are no intended or unintended third party beneficiaries of this Agreement, and no parties other than the Owner and the Construction Manager shall have the right to enforce this Agreement. Contractor is and shall remain an independent contractor and not an employee or agent of Owner.

11.5.7 Discrimination Prohibited. The Construction Manager and the Construction Manager's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Construction Manager shall take affirmative action to ensure that qualified applicants are employed if work is available, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Contractor agrees to post in places available to all employees and applicants for employment, notices setting forth the policies of nondiscrimination.

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11.5.8 Prohibition against Contingent Fees. Construction Manager warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Construction Manager 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 Construction Manager any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

11.5.9 Public Entity Crime. Construction Manager affirms that it is aware of the provisions of Section 287.133(2)(a), Florida Statutes, and that at no time has Architect been convicted of a Public Entity Crime. Construction Manager agrees that it shall not violate such law and further acknowledges and agrees that any conviction during the term of this Agreement may result in termination of this Contract by Owner.

11.5.10 Public Records.

a. To the extent Construction Manager is acting on behalf of Owner as provided under Subsection 119.011(2) of the Florida Statutes, Construction Manager shall:

i. Keep and maintain public records required by Owner to perform the services under this Agreement.

ii. Upon request from Owner's custodian of public records, provide 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 costs provided in Chapter 119 of the Florida Statutes or otherwise provided by law.

iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Construction Manager does not transfer the records to Owner.

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

b. If the Construction Manager fails to provide the public records to Owner within a reasonable time the Construction Manager may be subject to penalties under Section 119.10 of the Florida Statutes. Further, Owner may exercise any remedies at law or in equity, including, without limitation, the right to (i) impose sanctions and assess financial consequences, (ii) withhold and/or reduce payment, and (iii) terminate this Agreement in accordance with the terms hereof.

Construction Manager shall defend, at its own cost, indemnify, and hold harmless Owner, their officers, directors, and employees from and against all claims, damages, losses, and expenses, (including but not limited to fees and charges of attorneys or other professionals and court and arbitration or other dispute resolution costs) arising out of or resulting from Construction Manager's failure to comply with the terms of this Section.

c. IF THE CONSTRUCTION MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSTRUCTION MANAGER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT OWNER'S CUSTODIAN OF PUBLIC RECORDS, **DESIREE MAYFIELD AT 321-695-5301, DMAYFIELD@SPACEFLORIDA.GOV, 505 Odyssey Way, Suite 300, Exploration Park, FL 32953**.

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11.5.11 Construction Manager shall not use any funds received pursuant to this Agreement for lobbying the Florida Legislature, the judicial branch, or any state agency.

11.5.12 Whenever the term "Contractor" is used in the Contract Documents it shall refer to and mean "Construction Manager".

11.5.13 For services related to this Agreement, Contractor may not transact business with any entity that has been placed on the State's discriminatory vendor list.

11.5.14 Construction Manager shall coordinate and conduct with its subcontractors a Project Warranty Inspection at the Project site on a mutually convenient date within the 14 day period before the expiration of the one (1) year warranty period.

11.5.15 Per § 11.3 of AIA A201, Construction Manager shall provide the builder's risk insurance for this Project.

11.5.16 The following documents that are incorporated by reference and Contractor shall comply with all terms, conditions, and requirements of same:

_____

_____

11.5.17 All activities under or pursuant to this Agreement are subject to the availability of appropriated funds by the Legislature of the State of Florida. Owner shall immediately notify Contractor should funds become unavailable. In such case, either party shall have the right to stop work and/or terminate this Agreement.

11.5.18 Contractor is familiar with and shall comply with all applicable federal, state and local laws, rules, regulations, and requirements, including NASA, US Air Force, and US Navy directives, as applicable.

11.5.19 Contractor shall preserve all contract records and documents for the entire term of this Agreement and for five (5) years after the later of: (i) the date of submission of Contractor's final services, or (ii) until all claims (if any) regarding the Agreement are resolved. During such period of time, Contractor shall retain and maintain all records and make such records available for an audit as may be requested by Owner. The records shall be subject at all times to inspection, review, or audit by State personnel of the Office of the Auditor General, Chief Financial Officer, and Office of the Chief Inspector General. Owner may, at any time and for any reason whatsoever, review, audit, copy, examine and investigate in any manner, any records of Contractor which include, but are not limited to, papers, independent auditor working papers, books, documents, vouchers, bills, invoices, requests for payment, accounting records, and other supporting documentation, which according to generally accepted accounting principles, procedures and practices, sufficiently and properly reflect all costs expended in the performance of this Agreement.

11.5.20 To the extent applicable, Contractor shall comply with the audit requirements of Section 215.97 of the Florida Statutes and those found in Exhibit "F" attached, Audit Requirements. Contractor shall include the audit and record keeping requirements provided for in this Section and in Exhibit "F", in all subcontracts and for all sub-recipients of state funds according to Section 215.97 of the Florida Statutes. For purposes of this Agreement, "sub-recipient" shall be defined in accordance with Subsection 215.99(2)(x) of the Florida Statutes.

11.5.21 Contractor shall not use any funds received pursuant to this Agreement for lobbying the Florida Legislature, the judicial branch, or any state agency.

11.5.22 Contractor affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes. Contractor affirms it has not been placed on and Contractor shall y not transact business with any entity that has been placed on the State's discriminatory vendor list.

11.5.23 NASA's Right for Access and Inspection. NASA may enter the Project site for the purposes of inspections and demolition work. Contractor shall have no claim on account of such entries against NASA, or any officer, agent, employee, or related entity thereof.

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11.5.24 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 he or she 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 other consideration contingent upon or resulting from the award or making of this Agreement.

11.5.25 Contractor shall require language in each of its subconsultants' contracts providing for Owner's ownership of all Project documents.

11.5.26 Contractor shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management. Contractor shall insert a similar provision in accordance with this Section, in all subcontracts for this Project.

11.5.27 Contractor shall not be entitled to any claim for delay because of restrictions associated with accessing the Project site. The Project site is an active US government installation. There will be delays and work stoppages due to government activities at or near the Project site. Contractor's vehicles and personal will be subject to delays and inspections upon entering the property and Contractor has included these delays in its Contract Sum. Contractor shall coordinate daily with the designated Owner representative prior to arriving on-site to avoid delays and work-stoppages due to other government activities at or near the Project site. Material deliveries require minimum 48 hour prior advance coordination with Owner.

11.5.28 Contractor shall indemnify, defend, save and hold harmless the NASA-KSC, United States Air Force, United States Navy, State of Florida, Department of Transportation, Space Florida, and its Officers, Directors, and employees to the fullest extent permitted by law from and against all claims, damages, losses, liens, and expenses, (including but not limited to fees and charges of attorneys or other professionals and court and arbitration or other dispute resolution costs) to the extent caused by (i) the performance of services under this Agreement by Contractor or any person or organization directly, or indirectly, employed by Contractor to perform or furnish any of the services or anyone for whose acts any of them may be liable; (ii) breach of the terms of this Agreement by Contractor or any person or organization directly, or indirectly, employed by Contractor to perform or furnish any of the services or anyone for whose acts any of them may be liable; (iii) violations of applicable law by any person or organization directly or indirectly employed by Contractor to perform or furnish any services under this Agreement or anyone for whose acts any of them may be liable; (iv) injury or death of any third parties (including Space Florida employees and agents and those of Contractor), or damage to property to the extent attributable to the negligence or misconduct of Contractor or any person or organization directly, or indirectly, employed by Contractor to perform or furnish any of the services under this Agreement or anyone for whose acts any of them may be liable; or (v) the negligence, recklessness, or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement.

In claims against any person or entity indemnified under this Section 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 this Section shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

At Space Florida's election and upon notification to Contractor, Contractor shall assume the defense or settlement of any third-party claim arising under this Agreement with counsel satisfactory to Space Florida; provided, however that Contractor shall not settle any such claim in an amount over $10,000.00 without Space Florida's prior written consent. Notwithstanding the foregoing, (a) Space Florida shall have the right at Space Florida's option and expense, to participate fully in the defense or settlement of any third-party claim; and (b) if Contractor does not continuously defend or settle any third-party claim within 30 days after it is notified of the assertion or commencement thereof, then (i) Space Florida shall have the right, but not the obligation, to undertake the defense or settlement of such claim for the account and at the risk of the Contractor, and (ii) Contractor shall be bound by any defense or settlement that Space Florida may make as to such claim. Space Florida shall also be entitled to join Contractor in any third-party claim for the purpose of enforcing any right of indemnity hereunder.

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11.5.29 Safety and Health Plan. Prior to commencement of the Work the Contractor shall submit to the Owner a Safety and Health Plan, or similar documentation, describing how the Contractor intends to ensure the safety and health of personnel and protect property from damage. The Safety and Health Plan, or similar documentation, shall include descriptions of policies, procedures, and techniques for all anticipated working conditions that will be encountered throughout the services to be provided.

11.5.30 Temporary buildings (storage sheds, yards, shops, offices, and other facilities), if used, may be erected by Contractor but only with approval by Owner and shall be built to meet all CCAFS codes with labor and materials furnished by Contractor without additional expense to Owner, the U.S. Government, the U.S. Air Force, or the U.S. Navy. One (1) week prior to commencing work, Contractor shall provide Owner representative with a list of proposed temporary facilities or other equipment requiring a lay down area. Upon completion of the Work, such temporary facilities, equipment and utilities shall be removed by Contractor at Contractor's sole expense within seven (7) calendar days.

11.5.31 Access. Access by Contractor to NASA facilities or property is contingent upon compliance with NASA security and safety policies and guidelines including, but not limited to, standards on badging, credentials, and facility and IT system/application access.

11.5.32 There are no intended or unintended third party beneficiaries of this Agreement, and no parties other than the Owner and the Contractor shall have the right to enforce this Agreement.

11.5.33 Conflicts. This Agreement shall have precedence in the event of any conflicts between this Agreement and any of the Drawings, Specifications, Contractor's Proposal or Quotation Form, attachments, or other documents incorporated by reference to this Agreement.

11.5.34 Contractor agrees to remove from the Project any employee, Subcontractor, or Subcontractor employee that commits any breach of the Contract Documents or any breach of the Owner's written rules and regulations regarding jobsite conduct.

11.5.34 Contractor shall require all construction personnel to maintain a neat general appearance at all times. Shirts, trousers, and proper shoes are required apparel. The display of vulgar words, signs, or figures is prohibited. Sandals and flip-flops are prohibited on the Project site. All personal working on the Project must be properly trained and appropriately licensed or certified at no cost to Owner and proof of qualifications will be provided to Owner upon request.

11.5.35 Construction personnel shall not use profanity, illegal drugs, or alcohol on the Project site.

11.5.36 The use of radios, tape players, cd players, boom boxes, sound producing devices, and the like are prohibited on the Project site.

11.5.37 Smoking is prohibited on the Project site, except in areas specifically designated for same by Owner.

11.5.38 Contractor shall maintain a redlined set of drawings at the job site to show any deviations made from the Contract drawings, and which reflect the "As-Built" conditions. These drawings shall clearly identify all dimensions established in the field and all deviations to the drawings, as approved by the Owner representative. All red-line drawings shall be turned-over and provided to Owner within two (2) weeks of Final Completion.

11.5.39 If the scope of Work to be performed by Contractor is determined to be subject to the requirements of the Davis-Bacon Act, Contractor shall comply with all wage determinations and other applicable provisions.

11.5.40 Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees hired by Contractor during the term of this Agreement; and Contractor shall expressly require any subcontractors to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees hired by the subcontractors

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during the contract term. The Department of Homeland Security's E-Verify system can be found at: http://www.dhs.gov/files/programs/gc_1185221678150.shtm

11.5.41 The employment by Contractor or any of its subcontractors of unauthorized aliens, as described by Section 274A(e) of the Immigration and Nationalization Act, shall be cause for termination of this Agreement.

11.5.42 Prohibition of Use of NASA Name and Emblems. Contractor shall not use "National Aeronautics and Space Administration" or "NASA" in a way that creates the impression that a product or service has the authorization, support, sponsorship, or endorsement of NASA, which does not, in fact, exist. Contractor may not use NASA emblems (i.e., NASA Seal, NASA Insignia, NASA logotype, NASA Program Identifiers, and the NASA Flag) without review and approval by both Owner and NASA.

11.5.43 Safety.

a. Contractor shall comply with Kennedy NASA Procedural Requirements (KNPR) 8715.3-3, Kennedy Space Center ("KSC") Safety Procedural Requirements for Owner Organization's Operating in Exclusive-Use Facilities, with the tailored version of KNPR 8715.3-3 Chapter 7 replacing Chapter 7 of the KNPR.

b. Contractor shall comply with the tailored version of KNPR 8715.3 - 3, Chapter 7 Mishaps and Close Calls as follows:

i. KSC-Reportable Mishaps are unplanned events arising from the acts or omissions of Contractor that result in at least one of the following:

- The death of an individual.
- Injury or illness to any individual that is not employed by Owner or Contractor, its agents or invited guests.
- Damage to property outside the Shuttle Landing Facility defined area.
- High visibility or high public interest event, including events that could bring OSHA or media attention to NASA.

c. Contractor shall report all KSC-Reportable Mishaps to Owner, within a reasonable time upon the event being known (after appropriate emergency/medical response is notified and prior to the notification of OSHA), by notifying the Owner's Project Manager identified in this Agreement.

d. Contractor will support the safety culture at KSC, and report any unsafe activity, condition, event, or source of danger that they observe at KSC to Owner.

e. Contractor shall comply with NASA regulations, and all other laws, policies, and guidelines that pertain to security, fire and emergency management.

11.5.44 Waiver of Claims as Required by NASA. Contractor hereby waives all claims against Owner, NASA, its related entities, and employees of NASA and employees of NASA's related entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement for any injury to, or death of, Contractor's employees or the employees of Contractor's related entities, or for damage to, or loss of, Contractor's property or the property of its related entities arising from or related to activities conducted under this Agreement, whether such injury, death, damage, or loss arises through negligence or otherwise, except in the case of Owner's or NASA's willful misconduct.

11.5.45 ENVIRONMENTAL COMPLIANCE.

1. Contractor shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity, including items related to the space program. In the event such items are discovered at the Airport, Contractor shall cease its activities at the site and immediately notify the Space Florida's Airfield Manager.

2. Contractor shall take measures to prevent the release of hazardous materials at, about, or beneath the Airport. Contractor shall immediately report spills, releases, or emissions of hazardous materials that exceed a "Reportable Quantity" to Space Florida's Airfield Manager. Reportable Quantities for hazardous materials are defined by various federal and State of Florida regulations such as, but not limited to, 40 CFR Part 302, 40

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CFR Part 355, 49 CFR Parts 171-180, Florida Administrative Code (FAC) Chapter 62-150, and FAC Chapter 62-770.
3. Contractor shall also immediately report any spill or release of hazardous materials (regardless of quantity) to pervious surfaces or environmental media (such as grass, soil, groundwater, surface water, sediment, and gravel) to the Space Florida Aviation Manager.
4. Contractor shall comply with applicable oil pollution prevention regulations under Title 40 Part 112 of the Code of Federal Regulations.

11.5.46 Contractor hereby waives all claims against NASA, its related entities, and employees of NASA and employees of NASA's related entities for injury, death, damage, or loss arising from or related to activities conducted under this Agreement. Contractor waives all claims against the Government (except for such claims which result from the gross negligence or willful misconduct of the Government or its agents) for any such loss, damage, personal injury or death occurring as a consequence of the conduct of activities or the performance of Contractor's responsibilities under this Agreement.

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ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

.1 AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
.2 Revised AIA Document A201–2007, Revised General Conditions of the Contract for Construction
.3 Exhibit A - Statement of Work and Milestones
.4 Exhibit B - Breakdown of Preconstruction Fee
.5 Exhibit C - Hourly Rates
.6 Exhibit D - Not used.
.7 Exhibit E – Form of Guaranteed Maximum Price Amendment, not attached, to be prepared at time of GMP Amendment
.8 Exhibit F - Audit Requirements
.9

This Agreement is entered into as of the day and year first written above.

OWNER	**CONSTRUCTION MANAGER**
(Signature)	*(Signature)*
(Printed name and title)	*(Printed name and title)*
Date	**Date**

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Exhibit F – Audit Requirements

1. The administration of resources awarded through SF to Construction Manager by this Agreement may be subject to audits and/or monitoring by the FDOT or SF. The following requirements do not limit the authority of FDOT or SF to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official. Construction Manager shall comply with all audit and audit reporting requirements as specified below.

    a. In addition to reviews of audits conducted in accordance with Section 215.97 of the Florida Statutes, monitoring procedures to monitor Construction Manager's use of state financial assistance may include but not be limited to on-site visits by FDOT and/or SF staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through SF by this Agreement. By entering into this Agreement, Construction Manager agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by FDOT or SF. Construction Manager further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by FDOT, SF, the Department of Financial Services ("DFS") or the Auditor General.

    b. Construction Manager, a subrecipient as defined by Section 215.97(2)(x), Florida Statutes, as a recipient of state financial assistance through SF, another nonstate entity, through this Agreement is subject to the following requirements:

        i. In the event Construction Manager meets the audit threshold requirements established by Section 215.97, Florida Statutes, Construction Manager must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Attachment 1** to this Agreement indicates state financial assistance awarded through SF by this Agreement needed by Construction Manager to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, SF shall consider all sources of state financial assistance, including state financial assistance received from SF by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

        ii. In connection with the audit requirements, Construction Manager shall ensure that the audit complies with the requirements of Section 215.97(8),

Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iii. In the event Construction Manager does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, Construction Manager is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, Construction Manager must provide a single audit exemption statement to SF no later than nine months after the end of SF's audit period for each applicable audit year. In the event Construction Manager does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from Construction Manager's resources (i.e., the cost of such an audit must be paid from Construction Manager's resources obtained from other than state entities).

iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, FL 32399-0405
Email: FDOTSinqleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

And

Desiree Mayfield, Contract Compliance Manager
Space Florida
505 Odyssey Way, Suite 300
Exploration Park, FL 32953
Email: dmayfield@spaceflorida.gov

v. Any copies of financial reporting packages, reports or other information required to be submitted to SF or FDOT under this Section 20 shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

vi. Construction Manager when submitting financial reporting packages to SF or FDOT for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to SF and FDOT in correspondence accompanying the reporting package.

vii. As a condition of receiving state financial assistance under this Agreement, Construction Manager shall permit FDOT, or its designee, SF, DFS or the Auditor General access to Construction Manager's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.

c. Construction Manager shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow FDOT, or its designee, SF, DFS or the Auditor General access to such records upon request. Construction Manager shall ensure that the audit working papers are made available to FDOT, or its designee, SF, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by FDOT or SF.

2. Financial Consequences. As outlined in Sec. _____ of the FDOT Grant Agreement, in the event that FDOT determines that the performance of SF is unsatisfactory, FDOT has the ability to assess a "financial consequence" in the form of a non-performance retainer equivalent to 10% of a total invoice amount, and to withhold such retainage until SF resolves the deficiency. To the extent such deficiency is as a result of Construction Manager's performance or non-performance under this Agreement, the same "financial consequence" imposed by FDOT on SF shall be imposed by SF on Construction Manager. Under such circumstances, SF will notify Construction Manager if FDOT has determined that (i) FDOT has found Construction Manager's performance to be unsatisfactory, and (ii) the deficiency to be corrected, and (iii) the time-frame in which Construction Manager has to correct such deficiency. If the deficiency is resolved by Construction Manager, SF shall invoice FDOT for the non-performance retainer during the next billing period. If the deficiency is not resolved by Construction Manager, the funds retained by FDOT may be forfeited at the end of this Agreement.

ATTACHMENT 1

STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:

Awarding Agency:	Florida Department of Transportation
State Project Title:	SPACE FLORIDA – _____
CSFA Number:	_____
Award Amount:	$_____

Specific project information for CSFA Number 55.037 is provided at:
https://apps.fldfs.com/fsaa/searchCatalog.aspx

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.037 are provided at:
https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at:
https://apps.fldfs.com/fsaa/compliance.aspx

AIA® Document A133™ – 2009 Exhibit A

Guaranteed Maximum Price Amendment

for the following PROJECT:
(Name and address or location)

_____

THE OWNER:
(Name, legal status and address)

Space Florida, an independent special district, a body politic and corporate, and a subdivision of the State of Florida
505 Odyssey Way, Suite 300
Exploration Park, FL 32953
Attn: _____
_____@spaceflorida.gov
321-730-5301 x_____
321-_____ cell

THE CONSTRUCTION MANAGER:
(Name, legal status and address)

_____

ARTICLE A.1
§ A.1.1 Guaranteed Maximum Price
Pursuant to Section 2.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price ("GMP"). As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the total of the Preconstruction Fee, the Construction Manager's Fee, and the Cost of the Work, as that term is defined in Article 6 of this Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed _____ ($_____), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Preconstruction Fee, the Construction Manager's Fee, general conditions itemization with not-to-exceed total, and other items that comprise the Guaranteed Maximum Price.
(Provide below or reference an attachment.)

Preconstruction Fee is: $ _____ (which is included in the GMP below)
Construction Manager's Fee is: $ _____ (which is included in the GMP below)
Guaranteed Maximum Price is: $ _____.

And as detailed in attached Exhibit "A".

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
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§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Contract Documents permit the Owner to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)

Attached as Exhibit "B".

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

Item	Price ($0.00)
Attached as Exhibit "C".	

(Paragraphs deleted)
§ A.1.1.5, Comments, and clarifications, if any, on which the Guaranteed Maximum Price is based:

Attached as Exhibit "D".

§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Attached as Exhibit "E".			

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Agreement.)
Attached as Exhibit "F".

Section	Title	Date	Pages

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Agreement.)
Attached as Exhibit "G".

Number	Title	Date

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Agreement.)

General conditions itemization, attached as Exhibit "H", with a not-to-exceed total of **$_____.**
Any General Conditions costs in excess of this total shall be borne by and paid solely by Construction Manager

Completion Schedule, attached as Exhibit "I".
Schedule of Values, attached as Exhibit "J".

Unit Prices, if any, attached as Exhibit "K".

ARTICLE A.2
§ A.2.1 The date of Substantial Completion established by this Amendment is _____.
Construction Manager shall achieve Final Completion within 30 days after Substantial Completion.

OWNER
Space Florida

CONSTRUCTION MANAGER
_____.

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OWNER *(Signature)*

(Printed name and title)

Date

CONSTRUCTION MANAGER *(Signature)*

(Printed name and title)

Date

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User Notes: (877023537)

AIA® Document A201™ – 2007

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

_____

THE OWNER:
(Name and address)
Space Florida, an independent special district, a body politic and corporate, and a subdivision of the State of Florida
505 Odyssey Way, Suite 300
Exploration Park, FL 32953
Attn: _____
_____@spaceflorida.gov
321-_____ x_____
321-_____ cell

THE ARCHITECT:
(Name and address)
_____

THE CONTRACTOR:

_____

These General Conditions shall be known as the **A201-2007 Revised General Conditions.**

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 OWNER

3 CONTRACTOR

4 ARCHITECT

5 SUBCONTRACTORS

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6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

7 CHANGES IN THE WORK

8 TIME

9 PAYMENTS AND COMPLETION

10 PROTECTION OF PERSONS AND PROPERTY

11 INSURANCE AND BONDS

12 UNCOVERING AND CORRECTION OF WORK

13 MISCELLANEOUS PROVISIONS

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other 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.

§ 1.1.4 THE PROJECT

The Project is 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 the Owner and by separate contractors.

§ 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

§ 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 INSTRUMENTS OF SERVICE

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 INITIAL DECISION MAKER

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

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consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4. In the event of conflicts or discrepancies among Contract Documents, interpretations will be based on the following ranked order of precedence: **Modifications (including the GMP Amendment**, if applicable), other Amendments to the Agreement, Exhibits to the Agreement, the Agreement, the General Conditions, Specifications, and Drawings.

§ 1.3 CAPITALIZATION
Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION
In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE
§ 1.5.1 Drawings, specifications, and other documents including those in electronic form, prepared by the Architect and furnished for the Project are the property of Owner. The Owner shall retain all common law, statutory and other reserved rights, including copyrights related to the documents for the Project. Contractor **shall require language in each of its subconsultants' contracts providing for Owner's ownership of all Project documents.**

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service 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 Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM
If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

ARTICLE 2 OWNER
§ 2.1 GENERAL
§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

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§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3. Owner shall incur no liability for delays occasioned by any stop-Work order issued in accordance with this Section.

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

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§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to properly perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had properly performed such obligations and Contractor shall bear all costs and damages, including its own costs and damages. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, unless the Contractor recognized such error, inconsistency, omission or difference and failed to report it to the Architect promptly.

§ 3.2.5 Notwithstanding anything herein to the contrary, the Contractor shall be responsible for the satisfactory and complete execution of the Work described in the Contract Documents. The Contractor represents that it has carefully examined all Drawings and Specifications for the Work to be performed, that it has made investigations essential to the construction methods for the Project, and that it has the experience and necessary personnel, equipment, and material at its disposal to complete the Work in a good workmanlike manner in accordance with the Contract Documents without any defects in materials or workmanship.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from

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the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors. I**t is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing herein shall be construed to make Contractor the agent, servant, or employee of Owner or create any partnership, joint venture, or other association.**

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work. **Neither the presence nor absence of the Owner or Architect shall relieve the Contractor from any requirements of the Contract Documents.**

§ 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

3.4.2.1 After the Agreement has been executed, the Owner and the Architect will consider a formal request for the substitution of products in place of those specified. Such request will only be considered under the conditions set forth in the Specifications.

3.4.2.2 By making request for substitution, the Contractor:

.1 represents that it has personally investigated the proposed substitute product and determined that it is equal or superior in all respect to that specified;

.2 represents that it will provide the same warranty for the substitution as the original product specified;

.3 certifies that the cost data presented is complete and includes all related costs under the Contract Documents but excludes costs under separate contracts, and excludes the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently become apparent;

.4 will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all aspects.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

3.4.4 Contractor agrees to remove from the Project any employee, Subcontractor, or Subcontractor employee that commits any breach of the Contract Documents or any breach of the Owner's written rules and regulations regarding jobsite conduct.

3.4.5 Contractor shall require all construction personnel to maintain a neat general appearance at all times. Shirts, trousers, and proper shoes are required apparel. The display of vulgar words, signs, or figures is prohibited. Sandals and flip-flops are prohibited on the Project site.

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3.4.6 Construction personnel shall not use profanity, illegal drugs, or alcohol on the Project site. Contractor will implement a pre-hire, a random, and a post-accident drug screening program.

3.4.7 The use of radios, tape players, cd players, boom boxes, sound producing devices, and the like are prohibited on the Project site.

3.4.8 Smoking is prohibited on the Project site, except in areas specifically designated for same by Owner.

§ 3.5 WARRANTY

The Contractor warrants to the Owner and Architect 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 may 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, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.5.2. The Contractor assigns to Owner all warranties of all subcontractors and suppliers of the Work.

§ 3.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

3.6.2. The Owner is a governmental, tax exempt organization. The Contractor shall work with and assist the Owner to prevent payment of taxes not due.

3.6.2.1 Sales Tax Savings Program. Notwithstanding anything herein to the contrary, because Owner is exempt from sales tax and wishes to generate sales tax savings for the Project. Owner reserves the right to make direct purchases of various construction materials and equipment included in the Work. Before purchasing materials or equipment for the Project or a combination of like items that exceed $5,000 in cost. Contractor shall identify in writing to Owner all materials and equipment or a combination of like items to be included in the Work that will generate sales tax savings if purchased direct by Owner. Contractor shall comply with the written procedures for Owner Purchased materials provided by Owner to Contractor and shall incorporate a similar provision to this provision in all of its subcontracts requiring the Subcontractors' compliance with said procedures. Owner shall execute direct purchase orders with vendors for such Owner Purchased materials. The purchase orders shall contain Owner's Consumer Certificate of Exemption number. Owner shall acquire title to all Owner Purchased materials at the time same are delivered to the Project site. Owner shall obtain insurance on the Owner Purchased Materials and Owner shall assume all risk of loss and theft for the Owner Purchased Materials upon their delivery to the Project site and until they are incorporated into the real property. Vendors shall invoice Owner directly for the Owner Purchased Materials. Owner shall pay vendors directly for the Owner Purchased Materials. Contractor represents and warrants that it will use its best efforts to cooperate with Owner in implementing this sales tax savings program in order maximize cost savings for the Project. Upon the execution of a purchase order, Owner and Contractor shall execute a Change Order decreasing the Contract Sum by the total cost, including the saved sales tax for the materials or equipment purchased directly by Owner under said purchase order. With respect to all direct purchases by Owner, Contractor shall remain responsible for coordinating, installing, inspecting, storing, handling, warranting, installation, and quality control for all direct purchases. Notwithstanding anything herein to the contrary, Contractor expressly acknowledges and agrees that any materials or equipment directly purchased by Owner pursuant to this Paragraph shall be included within and covered to the same extent as all other warranties and performance guarantees provided by Contractor pursuant to the terms of the Contract Documents, including bonds, Owner assigns to Contractor any and all warranties and rights Owner may have from any manufacturer or supplier of any such direct purchases by Owner. The Parties understand that the above Owner direct purchase procedures are generally not available to purchase fabricated materials from a vendor that, in addition to fabricating them, also installs those same fabricated materials into the Project.

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§ 3.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown 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 before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect 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 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 shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

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§ 3.9 SUPERINTENDENT

§ 3.9.1 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.

§ 3.9.2. Prior to start of construction, the Contractor shall submit written qualifications of the Superintendent(s) and Project Manager to the Owner and Architect for their review and approval. The Superintendent and Project Manager shall have had recent experience in similar types of construction as that of the Project. The Superintendent and Project Manager shall be satisfactory to the Owner and shall not be changed except with the consent of the Owner, unless the Superintendent or Project Manager proves to be unsatisfactory to the Contractor and ceases to be in its employ.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect'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 the Work.

3.10.1.1 The Contractor shall prepare an Equipment Delivery Schedule which shall be submitted to the Owner within sixty (60) days of signing of the Agreement. This schedule shall indicate dates when the equipment to be furnished by the Owner is required on the site. The Contractor shall be responsible for coordinating these dates with the Project Schedule in order to avoid delays in the progress of the Work.

3.10.1.2 The Owner may authorize construction activities to commence prior to completion of the Drawings and Specifications. If the Drawings and Specifications require further development at the time the initial construction schedule is prepared, the Contractor shall 1) allow time in the schedule for further development of the Drawings and Specifications by the Architect, including time for review by the Owner and Contractor and for the Contractor's coordination of Subcontractors' Work, and 2) furnish to the Owner, in a timely manner information regarding anticipated market conditions and construction cost, availability of labor, materials and equipment; and proposed methods, sequences and time schedules for construction of the Work.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect 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.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

3.10.4 Float or slack is a shared commodity which can be used by either the Owner or the Contractor. Extensions of time for performance will be granted only to the extent that the equitable time adjustments for the activity or activities affected exceed the total float along the activity chain involved at the time the change was ordered or the delay occurred. Notwithstanding the above, the Contractor shall only be entitled to an extension of time for an excusable delay to the critical path of the Work that delays completion of the Project beyond the completion date stated in this Agreement.

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§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed. Additionally, record drawings shall be produced by Contractor also in PDF format.

3.11.1 Contractor shall permit Owner to have reasonable access to Contractor's records, account books, bills, invoices, payrolls, daily logs, and other records related to the Project. Contractor shall preserve such records for five (5) years after Substantial Completion of the Project.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

3.12.6.1 If modifications to existing buildings are involved, prior to ordering any material or performing any portion of the Work, the Contractor shall verify all dimensions and check all conditions in order to assure himself that they properly reflect those of the drawings. Any inconsistency shall be brought to the attention of the Architect. If the Architect was not notified beforehand of discrepancies occurring between ordered material and actual conditions, no adjustment in the Contract Sum or Contract Time will be allowed for the correction of such discrepancies.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued

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authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 CLEANING UP

§ 3.15.1 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.

§ 3.15.2 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 the Contractor.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

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§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS
The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION
§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify, defend, and hold harmless the Owner, and its agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' 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, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not 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 3.18.

§ 3.18.2 In regard to claims against any person or entity indemnified under this Section 3.18 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 3.18.1 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.

§ 3.19 Contractor shall comply with the Americans with Disabilities Act for all Work to be performed by Contractor under this Agreement; however, this shall not make Contractor liable for design issues.

ARTICLE 4 ARCHITECT
§ 4.1 GENERAL
§ 4.1.1 The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 4.1.4. Any approvals, certificates, or decisions of the Architect are subject to the approval of Owner, which approval shall not be unreasonably withheld. At Owner's discretion, the duties of the Architect described herein may be performed by the Owner or the Owner's representative.

§ 4.2 ADMINISTRATION OF THE CONTRACT
§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate For Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect 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 completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when

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fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect 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, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect 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 will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect 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.

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, which shall be subject to the Owner's approval, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, both of which are subject to the Owner's approval, and; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

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§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the 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.

5.1.1.2 Prior to accepting bids, the Contractor shall pre-qualify Subcontractors performing major or critical portions of the Work.

§ 5.1.2 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.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 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 Section 14.2 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 Contract.

(Paragraph Deleted)

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

6.1.1.2 The Contractor shall be responsible for the installation of certain equipment furnished by the Owner as indicated in the Contract Documents. It shall be the Contractor's responsibility to receive, unload, store, protect, set in place and connect each piece of equipment.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Contractor shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

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§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall conduct and coordinate the Contractor's construction and operations with the separate contractors as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner, separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 OWNER'S RIGHT TO CLEAN UP

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect 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 alone.

§ 7.1.3 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, Construction Change Directive or order for a minor change in the Work.

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§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect or the Owner and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect or the Owner and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 Unit prices stated in the Contract Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 7.3.7.

§ 7.3.4 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect and Owner of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form

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as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

.1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

.2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and

.5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 MINOR CHANGES IN THE WORK

The Architect has 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 changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date defined in Section 9.8.1 of these General Conditions.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

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§ 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by fire, by acts of God, unusual extraordinary weather events, unavoidable casualties or other causes not within the Contractor's control or responsibility; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine; however, the Contract Sum shall not be increased, except for a per diem payment as described below. It is the express and bargained for intent of the parties that the risk of any monetary damages caused by any delays described in this Section 8.3.1. or any other delays from any other cause are accepted and assumed entirely by Contractor, and in no event shall any claim relating thereto for an increase in the Contract Sum be made or recognized, except for the per diem payment as described below. Contractor's sole remedy for any delay, impact, disruption, or interruption caused by any of the reasons listed in this Section 8.3.1 shall be an equitable extension of time to perform the Work for each day of such delay that impacts the critical path schedule of the Project that extends the Date of Substantial Completion, and a per diem payment not to exceed the Contractor's reasonable extended daily general conditions costs per day for each day of such delay that impacts the critical path schedule of the Project that extends the Date of Substantial Completion. Contractor shall not make any other claim nor seek any other damages of any kind against Owner or Architect for any delays, impacts, disruptions, or interruptions of any kind. If a Contractor caused delay runs concurrent with such delays, Contractor shall not be entitled to any extension of time or per diem payment for the concurrent period of delay. Delays caused by labor disputes, delivery delays, and dispute resolution proceedings are considered within the Contractor's control and shall not be grounds for a delay claim.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

8.3.2.1 Extensions of time will be granted only if the item, task, or other phase of construction delayed is critical to the Work and so indicated on the Contractor's schedule.

§ 8.3.3 This Section 8.3 does preclude recovery of damages for delay by Contractor under any other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2., for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents. Form AIA G702, supported by form AIA G703 shall be used for all applications for payment.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1. The Architect's Certificate of Payment is subject to the approval of the Owner.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect or the Owner may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's or the Owner's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application or the Owner is unable to approve same, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Owner cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner and for which amount the Owner approves. The Architect or Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's or the Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

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.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

.5 damage to the Owner or a separate contractor;

.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or

7. repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment that has been approved by Owner, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. **As a condition to each progress payment the Contractor shall have furnished Owner with a partial lien waiver and release signed by Contractor, conditioned upon payment for all Work performed that is included in the current Application for Payment in the form attached to the Contract or if not attached, in a form approved by Owner, and shall have furnished Owner with partial lien waivers and releases signed by all persons or entities furnishing any labor or material, equipment, services, and materials for the Project and for all Work performed by same that is included in the respective prior Application for Payment.** . In addition, as a condition to each progress payment, in the event that any liens have been filed against the Project, the Contractor shall have either recorded a satisfaction of such lien or transferred the lien to a bond satisfactory to Owner.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

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§ 9.7 FAILURE OF PAYMENT

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect and approved by Owner or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is 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.

Additionally for the Work to be Substantially Complete the Work must also meet the following conditions:

a. The Work is complete in accordance with the Contract Documents to the extent required for Owner to obtain a Certificate of Occupancy and such certificate has actually been granted by the appropriate government authorities, provided that a failure to obtain the Certificate of Occupancy due to causes for which the Contractor is not responsible shall not be grounds to deny Substantial Completion status.

b. All HVAC systems included in the Work are properly functioning in accordance with the Contract Documents and verified by the Test and Balance report which shall have been delivered to the Architect and Owner.

c. All life safety systems included in the Work are functioning in accordance with the Contract Documents.

d. A certificate of Substantial Completion has been issued by the Architect..

e: All operating and maintenance manuals and training shall have been delivered to the Architect and Owner. And

f : All commissioned systems included in the Work are properly functioning in accordance with the Contract Documents and verified by the commissioning report delivered to the Owner provided that a failure of the Owner's commissioning agent for which the Contractor is not responsible shall not be grounds to deny substantial Completion
status.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

9.8.2.1 The Contractor's warranties required by the Contract Documents shall commence on the date of Substantial Completion regardless of the warranty dates established by subcontractors, equipment manufacturers or vendors.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. The list of incomplete items that the Contractor shall finish (the "Punch List") shall be provided to the

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Contractor no later than 30 days after the date of Substantial Completion pursuant to Florida Statute 255.077. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and subject to the Owner's approval, the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment and the Owner's approval of same will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

9.10.1.1 Final payment to the Contractor will not be made until all guarantees, warranties, operating manuals, parts list, instructions and record (as-built) drawings have been received by the Owner.

9.10.1.2 The Owner may require an audit of the Contractor's records. The audit shall be conducted by the Owner's personnel or authorized representative. The Owner reserves the right to audit at any time during construction and within four (4) years after the Substantial Completion of the Work.

§ 9.10.2 Contractor shall submit its final payment request within 45 days of Final Completion of the Project. Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner and Architect (1) a final contractor's affidavit in accordance with Florida law stating that the Work is Complete and all subcontractors and suppliers have been paid and an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance if required by the Contract Documents to remain in force after final payment, is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to

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cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment (5), if required by the Owner, other data establishing payment or satisfaction of construction liens, obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, and (6) as-built drawings, warranty documents, and O&M manuals.. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents; or
- **.3** terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

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§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY
If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 HAZARDOUS MATERIALS
§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 n/a.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

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§ 10.4 EMERGENCIES
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS
§ 11.1 CONTRACTOR'S LIABILITY INSURANCE
§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

.1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
.4 Claims for damages insured by usual personal injury liability coverage;
.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
.6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
.7 Claims for bodily injury or property damage arising out of completed operations; and
.8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability set forth below or higher if so specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

1. Worker's Compensation:
(a) State and Federal
(where applicable): Statutory
(b) Employer's Liability
i) Bodily injury- each accident, $1,000,000
ii) Disease – Policy limit, $1,000,000
iii) Disease – each employee, $1,000,000

2. Comprehensive General Liability (including premises-operations; independent contractor's protective; products and completed operations; and broad form property damage):
(a) Bodily Injury:
$1,000,000.00 Each Occurrence
$2,000,000.00 Annual Aggregate
(b) Property Damage:
$1,000,000.00 Each Occurrence
$2,000,000.00 Annual Aggregate
(c) Products and Completed Operations to be maintained for five (5) years after final payment
$1,000,000.00 Each Occurrence
$2,000,000.00 Annual Aggregate

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(d) Property Damage Liability Insurance shall include coverage for X, C and U hazards (Explosion - Collapse - Underground)

3. Contractual Liability:
(a) Bodily Injury:
$1,000,000.00 Each Occurrence
(b) Property Damage:
$1,000,000.00 Each Occurrence
$2,000,000.00 Annual Aggregate

4. Personal Injury, with Employment Exclusion deleted:
$1,000,000.00 Annual Aggregate

5. Comprehensive Automobile Liability:
(a) Bodily Injury:
$1,000,000 Each Occurrence
$3,000,000 Annual Aggregate
(b) Property Damage:
$1,000,000 Each Occurrence

6. Excess Liability:
(a) Umbrella form
(b) Combined: each occurrence $5,000,000
aggregate $5,000,000

7. Contractor's Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions with limits no less than $1,000,000 per occurrence or claim, and $2,000,000 policy aggregate.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner as additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE
The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.3 PROPERTY INSURANCE
§ 11.3.1 The Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

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§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

§ 11.3.1.2 If the Owner is damaged by the failure or neglect of the Contractor to purchase or maintain insurance as described above, without so notifying the Owner in writing, then the Contractor shall bear all reasonable costs properly attributable thereto.

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles, unless such costs are caused by the acts, omissions, or negligence of Contractor, and in such event Contractor shall pay such costs not covered because of the deductibles. The waiver of subrogation provisions of **§ 11.3.7 shall not apply to such deductibles.**

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

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§ 11.3.7 WAIVERS OF SUBROGATION
The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by and paid by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND
§ 11.4.1 The Owner shall have the right to require the Contractor to furnish unconditional bonds in an amount equal to 100% of the Contract Sum covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract. **The bonds shall comply with the requirements of Florida Statutes Section 255.05. "Conditional" Payment Bonds shall not be acceptable. Proper Power of Attorney shall accompany said bonds. Said bonds shall be delivered to the Owner for recording with the Notice of Commencement. No Work shall commence on the Project until the Notice of Commencement and copies of the Payment Bonds are recorded and certified copies thereof are posted at the Project site.**

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK
§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

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§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

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ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 13.4 RIGHTS AND REMEDIES

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall pay the testing firms. Contractor shall schedule, coordinate, and make arrangements for such tests, inspections and approvals with the independent testing laboratories or entities acceptable to the Owner, or with the appropriate public authority. and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

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§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST

Late payments. shall bear interest as provided in Florida Statute Chapter 255.073(4)..

§ 13.7

N/A.

13.8.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Contractor shall take affirmative action to ensure that qualified applicants are employed if work is available and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Contractor agrees to post in places available to all employees and applicants for employment, notices setting forth the policies of nondiscrimination.

13.8.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

13.9 Contractor shall be responsible for maintaining in good condition all cultivated grass plots, trees, shrubs, and landscaping on the Project site. If damaged, Contractor shall restore same to its original condition after completion of the Work.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- **.3** Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- **.4** The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner those amounts set forth in Section 14.4.3.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional

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days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

.5 **If adjudged bankrupt, or if the Contractor makes a general assignment for** the benefit of creditors or if a receiver is appointed on account of the Contractor's insolvency.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker and approved by the Owner, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent:

.1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

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.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 If the Owner terminates the Contract for convenience, it shall reimburse the Contractor for any unpaid Cost of the Work performed to the Date of termination plus the unpaid pro-rata portion of the Contractor's Fee on the completed Work. This payment shall be Contractor's sole remedy for such termination.

§ 14.5 In the event of any termination, the Contractor shall upon Owner's request, assign any and all subcontracts and purchase orders to Owner. Contractor shall have clauses in all its subcontracts and purchase orders allowing such assignment to Owner. As a precondition to any payment due Contractor as a result of any termination of this Agreement, Contractor shall execute any and all documents necessary to assign all rights and benefits of such subcontracts and purchase orders to Owner.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.5.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. 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; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for loss of use, for rental expenses, for losses of financing, business and

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reputation, loss of employee productivity or the services of such persons, 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 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to non-binding mediation and, if the parties fail to resolve their dispute through mediation, subject to litigation.

§ 15.2.6 Either party may file for non-binding mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue litigation proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

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§ 15.3 MEDIATION

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to non-binding mediation as a condition precedent to litigation.

§ 15.3.2 The parties shall endeavor to resolve their Claims by non-binding mediation which, unless the parties mutually agree otherwise, shall be in accordance with Florida Statutes Section 44.102. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs Deleted)

Agreed to
(Paragraph Deleted)

this _____day of _____, 20_____.

(Paragraph Deleted)

OWNER	**CONSTRUCTION MANAGER**
_____	_____
(Signature)	*(Signature)*
_____	_____
(Printed name and title)	*(Printed name and title)*
_____	_____
Date	**Date**
_____	_____

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ATTACHMENT B
DESCRIPTION OF PROJECT AND SCOPE OF WORK

GENERAL DESCRIPTION OF PROJECT

Clearing, grubbing and grading undeveloped land, creating new and mitigating wetlands, constructing roadway improvements, drainage improvements and installing utilities.

Some of the wetlands will be mitigated and new wetlands will be created onsite (within the SLF boundary) and offsite (outside of the SLF, but within KSC)

PERIOD OF PERFORMANCE

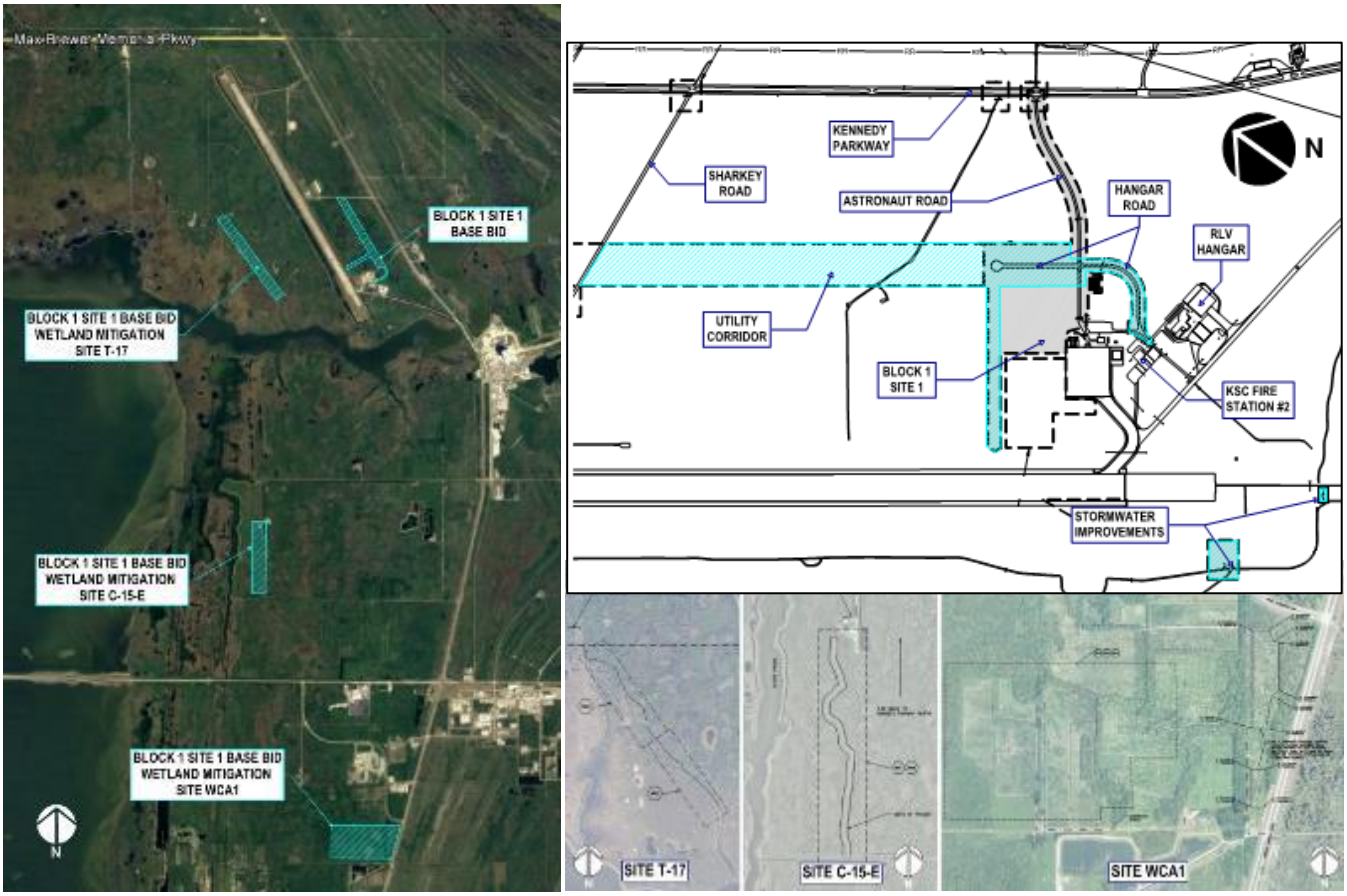
The completion time for the project will be negotiated at the time the guaranteed maximum price for the project is negotiated and agreed upon in writing.

SCOPE OF WORK TO BE PERFORMED

- SLF Block 1 including Site 1, Site 2, Hangar Road utility corridor and/or off-site wetland mitigation.
- SLF Block 3 Sites A & O

The selected CM will provide pre-construction services described below and coordinate with Space Florida's Engineer of Record on final design (issued for construction) plans will be made available to the selected CM early 2019. Note: *Due to the proprietary information, final plans and other documents mentioned in Attachment "B" will not be provided as part of this solicitation. The selected CM will be provided the plans for value engineering and pricing.*

BLOCK 1 - SOUTHFIELD COMMON USE INFRASTRUCTURE (CM biddable plans & specs ready)



The Southfield Common Infrastructure project consists of a new intersection and roadway perpendicular to Astronaut Road in the Southfield area, a utility corridor through the midfield area, and associated drainage infrastructure. The total project area is approximately 70 acres.

Purpose and Need: These improvements will provide access and utility service to future tenant sites and buildings, including the airside Block 1 Site 1 parcel to the north of Astronaut Road, while improving circulation to the existing and proposed Space Florida facilities near the RLV Hangar and the future Common Use Hangar. The project also provides critical fire access from Fire Station No. 2 and will allow emergency services to quickly access Astronaut Road and Kennedy Parkway to service all KSC facilities. The utility corridor proposed in this project will service all future midfield tenant sites.

Site Readiness: The current site is partially developed, with existing roadways and facilities in the Southfield area; however, the utility corridor is presently an undeveloped wooded area. The proposed wetland mitigation planting and previous permitting included in the project will render Site 1 as a "shovel-ready" site.

Scope: The project scope includes the construction of approximately 2,500 feet of roadway (Hangar Road), which will intersect and run perpendicular to Astronaut Boulevard. To the south of Astronaut Boulevard, Hangar Road will connect to the access drive adjacent to the fire station and the parking lot

near the Landing Aids Control Building. Associated improvements include shallow roadside swales, electrical and communications conduits, and a non-potable industrial water line connecting to the existing system near the fire station. No major improvements to Sharkey Road or Kennedy Parkway are included within this scope of work.

North of Astronaut Boulevard, Hangar Road may extend approximately 950' to a cul-de-sac temporarily. Utilities, including potable water, non-potable water, a sanitary force main, and electrical and communication conduits will be installed along Hangar Road to provide utility service to Site 1. Roadside ponds and a drainage swale along the north of Site 1 will provide required storm water storage and conveyance as well as fill material for the proposed site improvements.

The utility corridor improvements include the extension of potable water, non-potable water, sanitary force main, electrical and communications conduits through the midfield area from Hangar Road to Sharkey Road. These utilities will provide service to all airside and landside tenant sites in the Midfield area. This may also provide service to the existing facilities north of Sharkey Road, such as the Air Traffic Control Tower, which currently receives water from service lines along the taxiway perimeter and utilizes a septic system for sewer service. This will enable the development of future sites in this area, and will immediately enable the development of midfield landside sites A & O. The utility corridor area is currently undeveloped and will require clearing and grubbing. Additionally, the utility corridor area will be filled to the anticipated bottom of base elevation for the future Hangar Road. This fill material will not only provide adequate coverage for the proposed utilities but will also prepare the area for the future construction of Hangar Road.

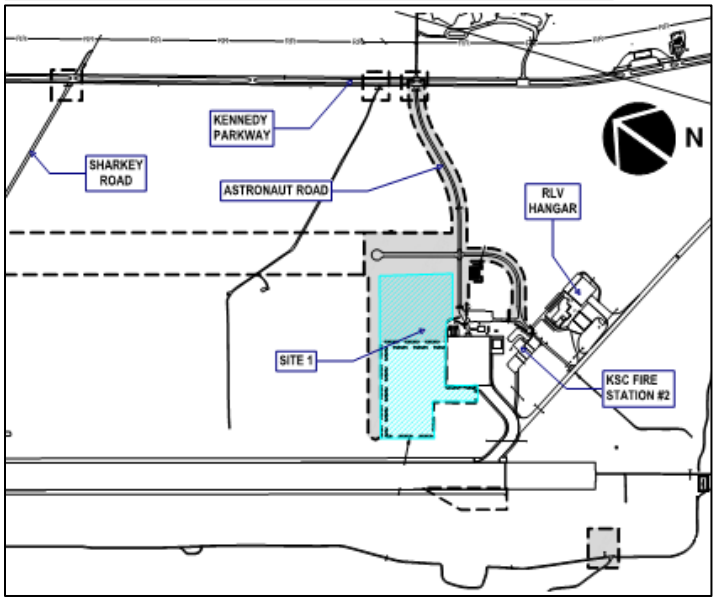
The area to be improved is currently encumbered with several wetlands. As part of the Southfield Common Infrastructure scope, these wetlands will be mitigated, and new wetlands will be created onsite (within the SLF boundary) and offsite (outside of the SLF, but within KSC) locations, including an impoundment area to the southwest of the SLF, an area west of Kennedy Parkway between Schwartz Road and NASA Parkway West, and an area just west of Kennedy Parkway south of Space Commerce Way. This wetland mitigation can provide mitigation credit for the Block 1 Site 1 and Block 1 Site 2 Northfield improvements while providing a small surplus of credits which may be applied to future developments.

A summary of the wetland creation areas and mitigation requirements is included below. It is assumed that the wetland mitigation areas may be constructed concurrently with the site improvements. The Southfield Common Infrastructure project also includes minor modifications to the main outfall weir structure at the south end of the runway, as well as the relief weir and culvert at the southwest corner of the canal to meet the storm water quantity and quality requirements.

Block 1 Wetland Mitigation (Per 2013 Joint ERP Application)			
Impacts		Acreage	Functional Loss Units
	Site #1	23.37	12.5
	Site #2	18.56	9.4
	Total		**(-) 21.9**
Credits		Acreage / Description	Functional Gain Units
	T-17	49 acres enhanced	7.3
	C-15-E	25.4 acres enhanced	7.7
	WCA-1	33.8 acres created, 2.9 enhanced	16.6
	Total	**33.8 created, 77.3 enhanced**	**(+) 31.6**
	Net Offset	**(+) 9.7**	**Credit Surplus**

1. **Current Design & Permitting Status**: The design of these improvements was initially conducted and completed by NASA in 2014 and updated by Space Florida in 2018. Wetland and storm water permits were obtained in 2014 concurrent with the original design, and ownership of the permits has been subsequently transferred jointly to Space Florida and NASA. The St. Johns River Water Management District **(**SJRWMD) permits for these projects are valid until July 2019. No additional St. Johns River Water Management District (SJRWMD) or the United States Army Core of Engineers (USACE) permitting is anticipated as part of the design revision; however, an extension may be required if the construction extends beyond the permit expiration date. Florida Department of Environmental Protection (FDEP) water and sewer extension permits, as well as the National Pollutant Discharge Elimination System (NPDES) permit, will be required prior to construction. Biological surveys must be conducted before construction, Eastern Indigo snake standard protection measures must be followed, and Gopher tortoise relocation may be required prior to construction.

BLOCK 1 – SITE 1: MASS GRADING (CM biddable plans & specs ready)



The Block 1 – Site 1: Mass Grading project consists of clearing, grubbing, and mass grading for Site 1, which is located within the Southfield airside area. The site encompasses approximately 31-acres and is located at the intersection of Astronaut Road and the proposed Hangar Road to be constructed as part of the Southfield Common Infrastructure project.

Purpose and Need: This project will prepare a readily accessible airside parcel for future tenant development. Upon completion of this project, Block 1 Site 1 will be mass graded, which will allow customers to expedite the development process and construction of new facilities on this parcel. Block 1 Site 1 is best suited to support HTOL operations, suborbital and specialized aviation type tenants. Upon completion of the Southfield Common Infrastructure project, utilities will also be available for this site. Due to its proximity to the existing apron and taxiway in the Southfield area, future tenants can easily obtain to the airfield from this site.

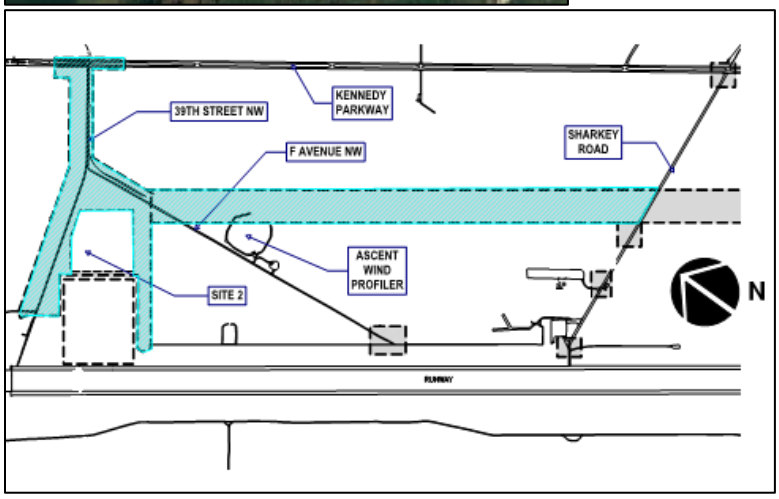
Site Readiness: The current site is presently an undeveloped wooded area. The proposed improvements will render Site 1 as a "pad-ready" site. Future tenants may be required to perform limited onsite earthwork, including construction of storm water pre-treatment ponds, establishing appropriate finished floor elevations for building pads, supplying structural fill material as needed for the specific facilities to be developed, and providing onsite utility services.

Scope: The project scope involves clearing and grubbing of the existing site, the removal of any unsuitable materials as identified by previous geotechnical information and the design drawings, and the placement and compaction of new fill material to bring the area to a suitable general site elevation (between 6' and 8' The North American Vertical Datum of 1988 (NAVD88). The existing site elevations are generally between -1' and 3 NAVD88. The scope does not include site fine-grading, such as the construction of onsite retention or detention areas or elevated building pads, or the construction of onsite utilities. No improvements to Sharkey Road or Kennedy Parkway are included within this scope of work.

Current Design & Permitting Status: The design of these improvements was initially conducted and completed by NASA in 2014 and updated by Space Florida in 2018. Wetland and storm water permits were obtained in 2014 concurrent with the original design, and ownership of the permits has been subsequently transferred jointly to Space Florida and NASA. The SJRWMD permits for these projects are valid until July 2019. An FDEP NPDES NOI will be required prior to construction. Biological surveys must be conducted before construction, Eastern Indigo snake standard protection measures must be followed, and Gopher tortoise relocation may be required prior to construction.

The project area is currently encumbered by several wetlands; however, these wetlands have been previously permitted for mitigation and the creation of mitigation areas is included in the Southfield Common Infrastructure project. No additional wetland creation or mitigation is necessary as part of the Block 1 – Site 1: Mass Grading scope of work.

BLOCK 1 -NORTHFIELD COMMON USE INFRASTRUCTURE (CM biddable plans & specs ready)



The Northfield Common Infrastructure consists of improvements to 39th Street NW and the intersection at Kennedy Parkway, an extension of the utility corridor from Sharkey Road to the F Avenue NW in the Northfield area, and associated drainage infrastructure. The total project area is approximately 140 acres.

Purpose and Need: No utilities currently serve the Northfield area, and the existing 39th Street NW is a single lane uncurbed asphalt road that currently unable to support tenant development. These improvements will provide access and utility service to the Northfield area, and to Site 2. This buffered site is best suited to support potentially hazardous operations and/or launch vehicle processing and loading. Due to its location and distance from other developments at the SLF, this site provides unique benefits for tenants requiring large standoff distances while also providing airfield access. In the future, the Northfield area may also support Block 4 vehicle processing and launch operations facilities, and Block 6 future landside and airside HTOL development parcels.

Site Readiness: The current site is a largely undeveloped area with light vegetation and wetlands. Provided that the wetland mitigation in the Southfield Common Infrastructure project is completed before or concurrently with this site, this project will render Site 2 as a "shovel-ready" site.

Scope: The project scope includes the demolition of approximately 2,500 feet of existing asphalt road, and the construction of approximately 3,700 feet of new roadway just north of the existing alignment. A portion of the existing asphalt between Kennedy Parkway North and F Avenue NW will remain. The intersection at Kennedy Parkway North will be modified to reflect the new roadway alignment and geometry. A segment of the existing airfield fencing, and gates will be removed and replaced to accommodate airside development of Site 2. Proposed drainage ponds along the road and along the east and south perimeter of Site 2 will provide storm water treatment and storage, fill material for the proposed roadway improvements, and runoff conveyance from future tenant development at Site 2.

The utility corridor improvements include the extension of potable water, non-potable water, sanitary force main, electrical and communications conduits through the Northfield area from Sharkey Road, as constructed in the Southfield Infrastructure improvements, to Site 2 just north of F Avenue NW. The corridor also dedicates space for future natural gas service. The alignment of these utilities will transition from the Hangar Road profile at Sharkey Road to a utility berm through the Northfield corridor.

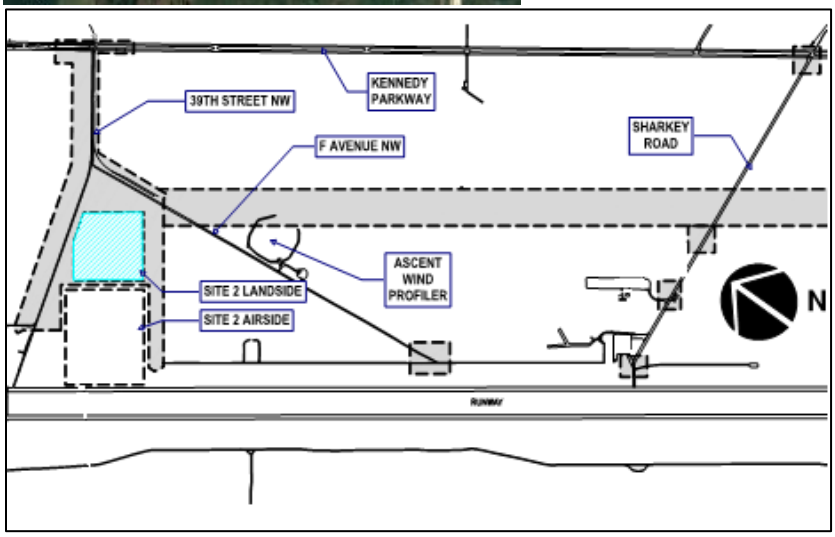
The proposed utility corridor and roadway areas will require clearing, grubbing, removal of unsuitable materials, and fill to provide adequate utility coverage. The project area is currently encumbered by several wetlands; however, these wetlands have been previously permitted for mitigation and the creation of mitigation areas is included in the Southfield Common Infrastructure project. No additional wetland creation or mitigation is necessary as part of the Northfield Common Infrastructure scope of work. No improvements to Sharkey Road are included within this scope of work.

Several conveyance culverts in the Northfield area are included in the scope of this project, such as the culverts along Sharkey Road between the utility corridor and the runway, as well as a culvert below F Avenue NW near the runway canal. This project is also contingent upon the storm water modifications to the main outfall weir structure at the south end of the runway, as well as the relief weir and culvert at the southwest corner of the canal as included in the Southfield Common Infrastructure to meet storm water quantity and quality requirements.

Current Design & Permitting Status: The design of these improvements was initially conducted and completed by NASA in 2014 and updated by Space Florida in 2018. Wetland and storm water permits were obtained in 2014 concurrent with the original design, and ownership of the permits has been subsequently transferred jointly to Space Florida and NASA. The SJRWMD permits for these projects are valid until July 2019. No additional SJRWMD or USACE permitting is anticipated as part of the design revision; however, an extension may be required if the construction extends beyond the permit expiration date.

FDEP water and sewer extension permits, as well as the NPDES permit, will be required prior to construction. Biological surveys must be conducted before construction, Eastern Indigo snake standard protection measures must be followed, and Gopher tortoise relocation may be required prior to construction.

BLOCK 1 – SITE 2: LANDSIDE MASS GRADING (CM biddable plans & specs ready)



The Block 1 – Site 2: Landside Mass Grading consists of clearing, grubbing, and mass grading for the landside portion of tenant Site 2. The site encompasses approximately 17-acres and is located near the intersection of 39th Street NW and F Avenue NW.

Purpose and Need: This project will prepare the landside portion of a readily accessible parcel for future tenant development. Upon completion of this project, Block 1 Site 2 landside will be mass graded, which will allow customers to expedite the development process and construction of new facilities on this parcel. This buffered site is best suited to support potentially hazardous operations and/or launch vehicle processing and loading.

Due to its location and distance from other developments at the SLF, this site provides unique benefits for tenants requiring large standoff distances while also providing airfield access.

With the improvements in the Northfield Common Infrastructure project, utilities will also be available to this site. Due to its proximity to the runway, a future tenant will be able to construct airfield access from this site; however, airside earthwork and site improvements will be necessary. Alternatively, Space

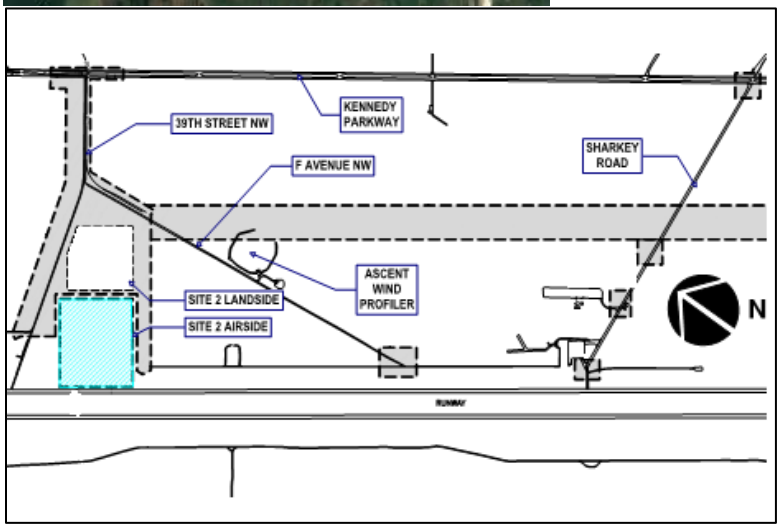
Florida may elect to construct the Block 1 – Site 2: Airside Mass Grading project simultaneously to allow tenants to more readily construct airfield access.

Site Readiness: The current site is a largely undeveloped area with light vegetation and wetlands. The proposed improvements will render the landside portion of Site 2 as a "pad-ready" site. Future tenants may be required to perform limited onsite earthwork, including construction of storm water pre-treatment ponds, establishing appropriate finished floor elevations for building pads, supplying structural fill material as needed for the specific facilities to be developed, and providing onsite utility services.

Scope: The project scope involves clearing and grubbing of the existing site, the removal of any unsuitable materials as identified by previous geotechnical information and the design drawings, and the placement and compaction of new fill material to bring the area to a suitable general site elevation (between 6' and 8' NAVD88). The existing site is relatively flat, with elevations generally between 3' and 5' NAVD88. The scope does not include site fine-grading, such as the construction of onsite retention or detention areas or elevated building pads, or the construction of onsite utilities. No improvements to Sharkey Road or Kennedy Parkway are included within this scope of work.

Current Design & Permitting Status: The design of these improvements was initially conducted and completed by NASA in 2014 and updated by Space Florida in 2018. Wetland and storm water permits were obtained in 2014 concurrent with the original design, and ownership of the permits has been subsequently transferred jointly to Space Florida and NASA. The SJRWMD permits for these projects are valid until July 2019. No additional SJRWMD or USACE permitting is anticipated as part of the design revision; however, an extension may be required if the construction extends beyond the permit expiration date. An NPDES permit will be required prior to construction. Biological surveys must be conducted before construction, Eastern Indigo snake standard protection measures must be followed, and Gopher tortoise relocation may be required prior to construction.

BLOCK 1 – SITE 2: AIRSIDE MASS GRADING (CM biddable plans & specs ready)



The Block 1 – Site 2: Airside Mass Grading consists of clearing, grubbing, and mass grading for airside Site 2. The site encompasses approximately 29-acres and is located along the east edge of the runway in the Northfield area, adjacent to the work performed as part of the Block 1 –Site 2: Landside Mass Grading scope.

Purpose and Need: This project enhances the sitework performed as part of the Block 1 Site 2 Landside scope by mass grading the airside of the Site 2 parcel. This will allow a tenant to more readily construct apron and airfield access. This buffered site is best suited to support potentially hazardous operations and/or launch vehicle processing and loading. Due to its location and distance from other developments at the SLF, this site provides unique benefits for tenants requiring large standoff distances while also providing airfield access. With the improvements in the Northfield Common Infrastructure project, utilities will also be available to this site.

Site Readiness: The current site is a largely undeveloped area with light vegetation and wetlands. The proposed improvements will render the airside portion of Site 2 as a "pad-ready" site. Future tenants may be required to perform limited onsite earthwork, including construction of storm water pre-treatment ponds, establishing appropriate elevations for structures and aprons, supplying structural fill material as needed for the specific facilities to be developed, and providing onsite utility services.

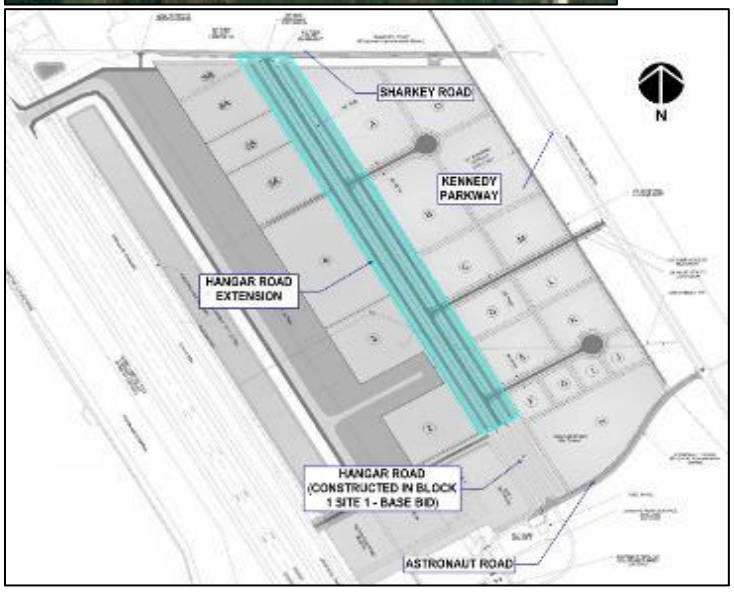
Scope: The project scope involves clearing and grubbing of the existing site, the removal of any unsuitable materials as identified by previous geotechnical information and the design drawings, and the placement and compaction of new fill material to bring the area to a suitable apron subgrade elevation (between 5' and 7' NAVD88). The existing site is relatively flat, with elevations generally between 3' and 5' NAVD88. The scope does not include site fine-grading, such as the construction of onsite retention or detention areas or building pads, or the construction of onsite utilities. The scope does not include the construction of aircraft apron or taxiway, as it is anticipated that a future tenant will construct these elements. Similarly, the Southfield turnaround as depicted within the 2014 construction documents will not be included in this scope of work. No improvements to Sharkey Road or Kennedy Parkway are included within this scope of work.

The proposed improvements also require the relocation of the FMQ-19 North Instrumentation Site. The construction of the new FMQ-19 site foundations and utility infrastructure is within the scope of work of this project; however, the removal and reinstallation of instrumentation and equipment is to be performed by the government. Relocation shall be coordinated with the 45th Space Wing Communications Squadron prior to demolition. The improvements also require the removal of a wind sensor tower, which must be coordinated with the 45th Space Wing Range Management Squadron. Once the government has removed the instrumentation to be retained, the site foundations and associated utilities may be demolished.

Current Design & Permitting Status: The design of these improvements was initially conducted and completed by NASA in 2014 and updated by Space Florida in 2018. Wetland and storm water permits were obtained in 2014 concurrent with the original design, and ownership of the permits has been subsequently transferred jointly to Space Florida and NASA. The SJRWMD permits for these projects are

valid until July 2019. No additional SJRWMD or USACE permitting is anticipated as part of the design revision; however, an extension may be required if the construction extends beyond the permit expiration date. An NPDES permit will be required prior to construction. Biological surveys must be conducted before construction, Eastern Indigo snake standard protection measures must be followed, and Gopher tortoise relocation may be required prior to construction.

BLOCK 1 - MIDFIELD HANGAR ROAD EXTENSION (CM biddable plans & specs ready by 2019)



The Midfield Hangar Road Extension project consists of approximately 4,500 feet of new roadway, as an extension of Hangar Road as previously constructed as part of the Southfield Common Infrastructure, and the associated drainage infrastructure. The roadway will be located along the previously installed utility easement between Astronaut Road and Sharkey Road, and will include a new intersection at Sharkey Road. The total project area is approximately 40 acres.

Purpose and Need: These improvements will provide vehicular access to future tenant sites and buildings in the midfield area, including all Block 2 airside parcels and Block 3 landside parcels.

Constructing the entire road at once enables the midfield sites to be developed independently. Tenants will be able to develop multiple sites concurrently, sequentially, or in staggered locations depending on siting requirements. The Hangar Road extension will also improve fire access response times from the Southfield fire station to the midfield tenant sites. The construction will also establish Sharkey Road as another primary access to the SLF, improving circulation in the midfield and Southfield areas.

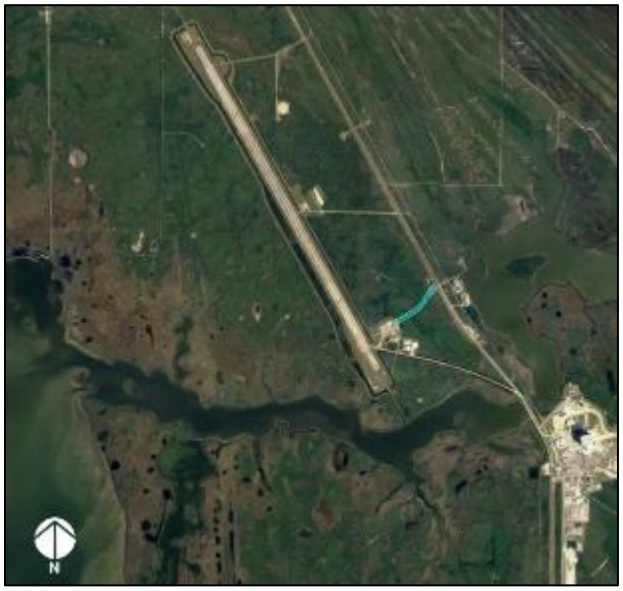
Site Readiness: The roadway site will be partially developed at the time of construction, as utilities will have been installed along this corridor as part of the Southfield Common Infrastructure scope. This project is not contingent upon the Midfield Wetland Mitigation project as this corridor has been previously permitted for mitigation; however, subsequent tenant development along the road is contingent on the Midfield Wetland Mitigation. Upon completion of both, this project and the Midfield Wetland Mitigation, all Block 2 and 3 sites will be rendered "shovel-ready".

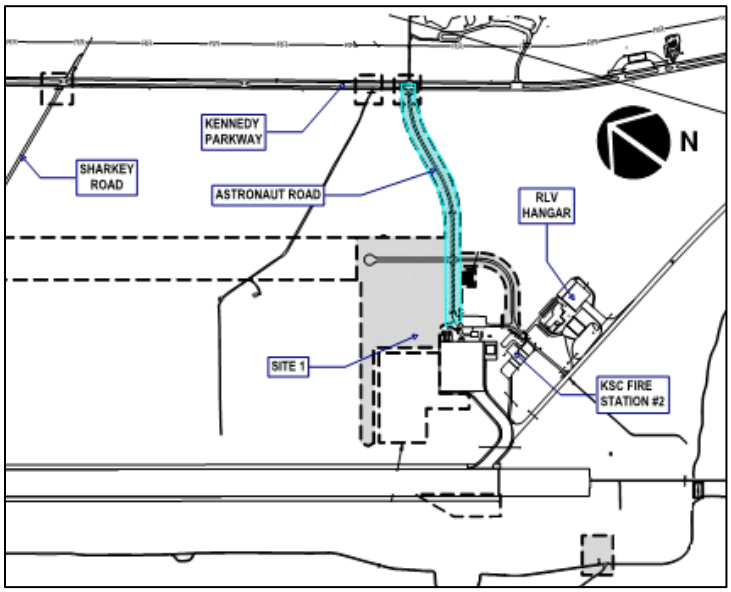
Scope: This project involves the construction of approximately 4,500 linear feet of asphalt roadway. For planning purposes, it is assumed that the section and geometry of this roadway matches the Hangar Road section as designed per the Southfield Common Infrastructure construction drawings. The geometry includes a crowned 36' wide roadway, including one 12' travel lane in each direction with a central 12' two-way left turn lane. Ribbon curb will be provided along either side of the roadway, and an additional 12' will be reserved on either side of the roadway for potential future expansion. This geometry may be phased or reduced at the time of design. The pavement section for the roadway consists of a 2.5" super pave asphaltic concrete surface, an 8" lime rock base course, and 12" of underlying stabilized subgrade. New signage and striping will be provided along the roadway.

Minimal clearing, grubbing, removal of unsuitable soils, and fill is anticipated as part of this project, as much of this work will have been complete as part of the utility corridor installation in the Southfield Common Infrastructure Project; however, this project will include the excavation of the roadside storm water pond system. No improvements to Sharkey Road or Kennedy Parkway are included within this scope of work.

Current Design & Permitting Status: A conceptual plan for the Hangar Road extension was developed as part of the 2016 ERP permit documents but has not been formally submitted to SJRWMD or USACE. Existing geotechnical and topographic survey information is available and roadway geometry, pavement section, mitigation and earthwork for the corridor has been completed as part of the 2014 Block 1 construction documents. Space Florida intends to have others perform permitting and prepare final construction documents. An NPDES permit will be required prior to construction. Biological surveys must be conducted before construction, Eastern Indigo snake standard protection measures must be followed, and Gopher tortoise relocation may be required prior to construction.

BLOCK 1 - SOUTHFIELD ASTRONAUT ROAD RESURFACING (CM biddable plans & specs ready)





The Southfield Astronaut Road Resurfacing consists of the renovation of approximately 2,600 feet of pavement along Astronaut Road from Kennedy Parkway North to the parking area near the Landing Aids Control Building (J6-2313).

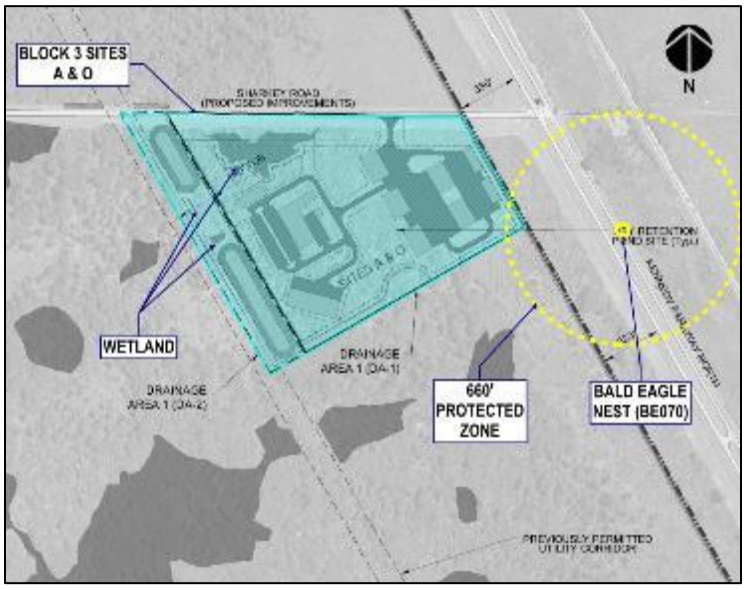
Purpose and Need: The existing road is approximately 24 feet wide and appears to be in fair condition; however, heavy construction traffic due to earthwork operations and the anticipated increase in traffic due to future tenants may warrant the resurfacing of Astronaut Road. Until Hangar Road is fully extended north to Sharkey Road, Astronaut Road will continue to be the primary access road to the majority of the SLF facilities.

Site Readiness: This project involves modifications to an existing roadway and does not propose a change in site readiness.

Scope: This project involves milling approximately 1" of the existing asphalt surface and installing a 1" SP-12.5 asphalt overlay. This project is intended to improve the pavement condition once the Southfield Common Infrastructure, Block 1 – Site 1: Mass Grading, and Hangar Road improvements have been constructed. It is anticipated that an additional overlay will be required after Block 2 and Block 3 earthwork operations. Based on asphalt cores and visual observation, the existing road consists of 1.5 inches of asphalt and 6 inches of lime rock base on average, and the water table was not encountered 2 feet below the surface, reducing concerns about the water table in the base or subgrade. New signage and striping will be provided along the roadway. No improvements to Sharkey Road or Kennedy Parkway are included within this scope of work.

Current Design & Permitting Status: The design of these improvements was initially conducted and completed by NASA in 2014 and updated by Space Florida in 2018. This bid option does not propose impacts to any wetlands or threatened and endangered species and will not trigger any additional storm water or permitting requirements.

BLOCK 3 – SITES A & O: MASS GRADING (CM biddable plans & specs ready before 2019)



The Block 3 – Sites A&O: Mass Grading project consists of permitting and mass grading for the two northernmost landside sites along Sharkey Road. The site encompasses approximately 32-acres and is located at the intersection of Sharkey Road and Kennedy Parkway North.

Purpose and Need: This project will prepare two landside parcels for future tenant development. Upon completion of this project, Sites A&O will be fully permitted and mass graded, which will allow customers to expedite the development process and construction of new facilities on this parcel. Sites A&O are best suited to support tenants developing manufacturing and processing facilities.

Provided that the improvements in the Southfield Common Infrastructure project are completed before or concurrently with this site, utilities will be readily available at these sites, and site access will be readily available from Sharkey Road.

Site Readiness: The current site is presently an undeveloped wooded area. The proposed improvements will render Sites A&O as "pad-ready" sites. Future tenants may be required to perform limited onsite earthwork, including construction of storm water pre-treatment ponds, establishing appropriate finished floor elevations for building pads, supplying structural fill material as needed for the specific facilities to be developed, and providing onsite utility services.

Scope: The project scope involves clearing and grubbing of the existing site, the removal of any unsuitable materials as identified by previous geotechnical information, and the placement and compaction of new fill material to bring the area to a suitable general site elevation.

The scope does not include site fine-grading, such as the construction of onsite dry retention areas or elevated building pads; however, the two planned wet detention ponds along the west site boundary near the proposed Hangar Road extension will be included within the project scope. This scope does not include the construction of onsite utility services. The design minimizes impacts to onsite wetlands, and it is assumed that no wetland mitigation will be required. No improvements to Sharkey Road or Kennedy Parkway are included within this scope of work.

Status of Design/Permitting: Construction documents are being prepared by others and are anticipated to be at a 100% design development level by January 2019.

Space Florida is currently preparing expedited permitting application documents to allow this site to be permitted independently through the SJRWMD ERP process. This permitting strategy includes providing onsite wet detention and dry retention areas. The proposed mass grading will avoid impacts to onsite wetlands; therefore, it is assumed that mitigation of the Block 3 wetlands is not required for this project. There is an existing active bald eagle nest (BE070) located just northeast of the site, and a portion of the site lies within the 660' FWC protected boundary. The proposed development will avoid disturbance in this area to minimize impacts to the nest. Biological surveys must be conducted before construction, Eastern Indigo snake standard protection measures must be followed. Gopher tortoise relocation and scrub jay habitat compensation will be required and will need to be coordinated through NASA Environmental Assurance Branch prior to construction. An NPDES permit will be required prior to construction.