

ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS



REQUEST FOR PROPOSALS
RFP #10-427

Construction Manager at Risk for the Alachua County Jail HVAC & Roof
Replacement Project

RFP Submittal Deadline:
2:00 pm, Wednesday, July 7, 2010

Any response received after the above submittal deadline will not be
considered.

Alachua County Purchasing Division, Third Floor
County Administration Building
12 SE 1st Street
Gainesville, Florida 32601-6983
(352) 374-5202 (PHONE)
(352) 491-4569 (FAX)

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ALACHUA COUNTY BOARD OF COUNTY COMMISSIONERS
REQUEST FOR PROPOSALS #10-427

FOR THE PROVISION OF **Construction Manager at Risk for the Alachua County Jail HVAC & Roof Replacement Project**

1.0 **GENERAL PROVISIONS**

1.1 **Purpose**

Alachua County Board of County Commissioners is seeking proposals from licensed professionals (hereinafter, referred to as Consultants) for the provision of **Construction Manager at Risk for the Alachua County Jail HVAC & Roof Replacement Project for Facilities Management**. The contract shall be effective for the period beginning with the date of executed contract and continuing through completion of work.

The following apply to this request for proposal: General Provisions (Section 1.0), Background Information (Section 2.0), Scope of Services (Section 3.0), County Selection Procedures (Section 4.0), Proposal Requirements and Organization (5.0) Selection and Evaluation Criteria (Section 6.0), Professional Responsibility (Section 7.0), General Terms and Conditions (Section 8.0), Exhibits: Certified Small Business Enterprise Points Request Form, Volume of Previous Work Summary Form, Statement of No Proposal, Drug Free Workplace Form, Signature and Acknowledgement of Addendum Form , Proposed Subconsultants Form, and Good Faith Effort Requirements.

1.2 **Proposal Submission**

Proposals must be submitted with all required submissions included. Failure to comply may preclude consideration of the proposal.

Each Consultant is responsible for full and complete compliance with all laws, rules and regulations which may be applicable.

All printed and photocopied documents related to the submission of this RFP and fulfillment of any resulting contract shall be double-sided and printed on recycled paper with a **minimum of 30% post-consumer content**.

Consultants desiring to provide services as described herein shall submit proposals, an original, an **electronic copy (pdf format)** and eight (8) copies in a sealed envelope labeled on the outside of the envelope, "**10-427; Construction Manager at Risk for the Alachua County Jail HVAC & Roof Replacement Project**", and deliver not later than **2:00 pm, Wednesday July 7, 2010**, to the attention of:

HAND DELIVER OR MAILED TO:

Alachua County Purchasing Division, Third Floor
County Administration Building
12 SE 1st Street
Gainesville, Florida 32601-6983

LATE PROPOSALS WILL NOT BE CONSIDERED.

Upon submission, all proposals become the property of the County which has the right to use any or all ideas presented in any proposal submitted in response to this Request for Proposal, whether or not the proposal is accepted.

All work papers/products developed as part of the contract performance become property of the County upon termination or completion of the provision of services.

The cost for development of the written proposal and the oral presentation are entirely the obligation of the Consultant and shall not be chargeable in any manner to Alachua County.

No Proposal Submitted - If you are not submitting a proposal, please respond by returning only the Statement of No Proposal Form **EXHIBIT F** and explain the reason in the space provided. Failure to submit the Statement of No Proposal may result in your name being deleted from the list of qualified Consultants for Alachua County.

1.3 **Acceptance/Rejection of Proposals**

Alachua County reserves the right to reject any proposal which may be considered irregular, show serious omission, unauthorized alteration of form, unauthorized alternate proposals, incomplete or unbalanced proposals or irregularities of any kind.

Submittal requirements of this Request for Proposals are for evaluation and selection purposes only. The County may allow alterations, modifications, or revisions to individual elements of the successful proposal at any time during the period of the contract which results from this Request for Proposals.

Alachua County reserves the right to accept or reject any or all proposals in whole or in part, with or without cause, to waive technicalities, or to accept proposals or portions thereof which, in the County's judgment, best serve the interests of the County, or to award a contract to the next most qualified Consultant if a selected Consultant does not execute a contract within thirty (30) days after the award of the proposal.

The thirty day (30) time period may be extended an additional twenty (20) days where the selected Consultant is unavailable during the initial thirty-day period.

1.4 **Consideration of Proposals**

Proposals will be considered from Consultants normally engaged in providing and performing services as specified herein. The Consultant must have adequate organization, facilities, equipment and personnel to ensure prompt and efficient service to the County. The County reserves the right to inspect the facilities and organization or to take any other action necessary to determine ability to perform in accordance with specifications, terms and conditions before recommending any award.

1.5 **Proposal Withdrawal**

Any Consultant may withdraw his proposal by telegraphic, fax or written request at any time prior to the scheduled closing time for receipt of proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide the County the services as set forth in Section 3.0, Scope of Services, or until one or more of the proposals has been awarded.

1.6 **Non-Warranty of Request for Proposals**

Due care and diligence has been used in preparing this Request for Proposal. The County shall not be responsible for any error or omission in this Request for Proposal, nor for the failure on the part of the Consultants to ensure that they have all information necessary to effect their proposals.

1.7 **Request for Clarification**

The County reserves the right to request clarification of information submitted and to request additional information of one or more Consultants, either orally or in writing.

1.8 **Inquiries/Questions**

After thoroughly reading this Request for Proposals and Exhibits, Consultants may direct questions, in writing only, to:

Princess L. Brown, CPPB
Alachua County Purchasing Division, Third Floor
County Administration Building
12 SE 1st Street
Gainesville, Florida 32601-6983
(352)374-5202 (Phone)
(352)491-4569
Email: pbrown@alachuacounty.us

1.8.1 Any Consultant in doubt as to the true meaning of any part of the Request for Proposal or related documents may submit a written request to the Princess L. Brown, CPPB, at the address indicated above, at least ten (10) days prior to closing date set for receipt of proposals to be considered for a response. Any interpretation to a Consultant will be made only by addendum duly issued, and a copy of such addendum will be posted to **Demandstar.com**. **Oral answers will not be authoritative.**

1.9 **Contact with Members of the Professional Services Evaluation Committee**

To ensure fair consideration for all Consultants, the County prohibits communication to or with any department, employee, elected official, or anyone evaluating or considering the proposals during the submission process, except as provided in Section 1.9.1. Additionally, the County prohibits communications initiated by a Consultant to any department, employee, elected official, or anyone evaluating or considering the proposals prior to the time an award decision has been made.

1.9.1 Any communication between Consultant and the County will be initiated by the County's Purchasing Division in order to obtain information or clarification needed to develop a proper, accurate evaluation of the proposal. Communications initiated by a Consultant to anyone other than the appropriate Purchasing Representative may be grounds for disqualifying the offending Consultant from consideration of award of the proposal being evaluated and/or any future proposal.

1.9.2 It will be the responsibility of the Consultant to contact the County's Purchasing Division prior to submitting a proposal to ascertain if any addenda have been issued, to obtain all such addenda and to return executed addenda with the proposal.

1.10 **Proprietary Information**

1.10.1 Responses to this Request for Proposals upon receipt by the County become public records subject to the provisions of Chapter 119 F.S., Florida's Public Records Law. If you believe that any portion or all of your response is confidential or proprietary, or otherwise exempt from disclosure as a Public Record, you should clearly assert such exemption and state the specific legal authority for the asserted exemption. All material that designated as exempt from Chapter 119 must be submitted in a separate envelope, clearly identified as "PUBLIC RECORDS EXEMPT" with your name and the proposal number marked on the outside. Furthermore, you must complete **EXHIBIT I, PUBLIC RECORD DECLARATION OR CLAIM OF EXEMPTION**.

1.10.2 Please be aware that the designation of an item as exempt from disclosure as a Public Record may be challenged in court by any person. By your designation of material in your proposal as "Public Records Exempt", you agree to defend and hold harmless the County from any claims, judgements, damages, costs, and attorney's fees and costs of the challenger and for costs and attorney's fees incurred by the County by reason of any legal action challenging your designation.

1.11 **Examination of Request for Proposals**

Before submitting a proposal, it shall be the Consultant's responsibility to examine thoroughly the Request for Proposals or other related documents (where applicable) to be informed regarding any and all conditions and requirements that may in any manner affect the work to be performed under the Contract. Failure to do so will not relieve the selected Consultant of complete performance under the contract.

1.12 **Small Business Enterprise Program Participation**

1.12.1 Alachua County has adopted a 15% participation goal, and policies which encourage participation of Small Business Enterprises (SBEs) in the provision of goods, services and construction.

1.12.2 The County will award a preference in evaluation points to SBE vendors who are certified by Alachua County.

1.12.3 **Good Faith Effort Requirements**

1.12.3.1 The awarded vendor will be expected to make a Good Faith Effort to utilize certified SBE vendors when subcontracting for supplies and/or services. Alachua County has established the goal of awarding up to 15% of the total bid monies for materials, supplies, equipment, services, and construction to Small Business Enterprises.

1.12.4 **RFPs Certified Small Business Enterprise Points Request Requirements**

1.12.4.1 The Technical Qualifications Evaluation phase of the Professional Services Evaluation Process assesses whether a Consultant is a certified Small Business Enterprise (SBE) and provides for the allocation of points when the Consultant includes in its submittal a request for points allowed for Alachua County's Certified SBEs' participation in accordance with the options listed in **EXHIBIT E** and provides the necessary documentation to substantiate such request.

1.12.4.2 Vendors shall complete the Certified Small Business Enterprise Points Request Form for RFPs, **EXHIBIT E**.

1.13 **Public Entity Crimes**

A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a Consultant, supplier, subconsultant, or Consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

1.14 **Drug Free Workplace**

Section 22.09 Competitive Sealed Bidding of the Alachua County Purchasing Code states that in the evaluation of bids, all factors in the bidding process being equal, both as to dollar amount and ability to perform, priority will be given, first, to those vendors certifying a drug free workplace by executing the attached Drug Free Workplace Form **EXHIBIT D** and, second, to certified small business enterprise bidders.

1.15 **Workplace Violence**

Employees of bidders (or responders for RFP's) are prohibited from committing any act of workplace violence. Violation may be grounds for termination. Workplace violence means the commission of any of the following acts by a bidder's employee.

Battery: intentional offensive touching or application of force or violence to another.

Stalking: willfully, maliciously and repeatedly following or harassing another person.

2.0 **BACKGROUND INFORMATION**

2.1 **Location**

Alachua County is located in North Central Florida. The County government seat is situated in Gainesville. Gainesville is located 70 miles southwest of Jacksonville, 129 miles southeast of Tallahassee, 140 miles northeast of Tampa - St. Petersburg and 109 miles northwest of Orlando. Alachua County has a population of over 243,000. The County itself consists of a total area of 969 square miles.

2.2 **Form of Government**

Alachua County is governed by a Board of five (5) elected County Commissioners and operates under the established County Manager Charter form of government. In addition to the five County Commissioners, there are five elected Constitutional Officers: the Supervisor of Elections, the Sheriff, and the Clerk of the Court, the Tax Collector, and the Property Appraiser. There is also a County Attorney reporting to the Board.

3.0 **SCOPE OF SERVICES**

In general, this project involves the replacement of Heating Ventilation and Air conditioning Units, roof replacement, installation of solar panels, Solatubes, and other components specified by the Owners.

The Work to be provided by Construction Manager (CM) pursuant to this RFP shall be performed essentially in two major phases. Those phases are Pre-Construction Phase, and Construction Phase Services. During the pre-construction phase, the CM will review the existing design plans and assist the Engineer of Records with completing the design documents from 95 to 100%. At the discretion of Owner, those two phases may overlap. Construction Manager Contract Agreement with Alachua County Board of County Commission using General Terms and Conditions will be the basis of this RFP. The CM shall plan to negotiate a single agreement with two parts. Part one of the agreement will include the roles, responsibilities and cost associated with performing pre-construction services. This project will require the Owner/s to issue two notices to proceed. The first notice to proceed will authorize the CM to participate in the final design of the project. The second notice to proceed will be issued to the CM after the Board of County Commissioners approve of the Part two and including a Guaranteed Maximum Price (GMP) to install and construct the project. As a minimum, and in Phase II, the CM will provide the construction management services, including site development and management, administrative support, reporting, coordination of reviews of meetings, and other work required to comply with the terms in the CM contract. The CM shall conduct competitive procurement of all services including mechanical, electrical, controls, and other trades and services. These services as well as any exclusion will be specified and detailed in the CM Agreement/Contract. During the RFP oral presentations, candidates must provide a detailed timeline ensuring project completion not later than September/October 2011.

The Project Manager representing the CM will use AdvanTek Design # 07-J-039; plans, drawings and specifications by AdvanTek Consulting Engineering, Inc the Architect/ Engineer of Record of the Energy Conservation Project at the Alachua County Jail, 3333 NE 39th Ave, Gainesville, Florida.

The design will be completed to 95% by AdvanTek then proceed to 100% during the Pre-Construction Phase with the Construction Manager, Affiliated Engineers the Commissioning Agent and the AdvanTek the Engineer of Record.

As a minimum, the Owner's expectations of the selected CM is to plan on assisting the Owner with identifying and direct purchasing of numerous materials including a most "state of art" SMARDT packaged Chiller Plant (with controls), heat pipe modules for new AHUs, installation of over 108 solar panels, at least 88 Solatubes, other owner furnished equipment, removal old roof and replace with new foam roofing of the entire jail, installation of all new air handling units, lighting protection, provide temporary air conditioning and heating as appropriate, handle all temporary hookup and utilities if necessary and permits.

In addition the CM must remove the existing 76 Roof Top Units (RTUs) and assist the Owner with disposal and or the resale of serviceable units as much as possible.

The CM to provide complete service maintenance agreement for one year after CO on Chiller Plant Systems, Roof Top Fan Coil Units, all pumps, motors, VFD drives that are related to new project design # 07-J-039. One year after CO Service on the Hot Water Solar Systems Panels, and related motors, pipe strainers, valves that operate the solar system. The CM to provide service maintenance, and warranty related mechanical service on entire newly installed energy saving systems including related controls.

The CM must have LEEDS certified professionals on their staff and assist in the purchasing of Green material. Although the CM contract will require that the CM work directly for the Owner, they must demonstrate the ability and experience to work with law enforcement including satisfying background and security requirements, experience working with engineers, architects, consultants, special interest groups and County staff.

4.0 **COUNTY SELECTION PROCEDURES**

The Consultant selected to provide the services described herein will be selected from the qualified Consultants submitting responses to this request for proposal. The selection process will be as follows:

4.1 **Written Submittals**

All the written submittals will be reviewed by the staff of the department requesting the services. Taking into account the Professional Qualifications and the overall written proposal, the department will then select no more than six (6) Consultants. The proposals of these Consultants will then be presented to the staff evaluation team for a thorough review and evaluation per the criteria stated in Section 6.0 of the Request for Proposal.

4.2 **The Staff Evaluation Team**

Generally made up of 3 to 5 members, is selected by the Department Head, and includes at least one member from the user department with other members selected as deemed appropriate. This staff evaluation team serves in an advisory capacity to the Department Head, who is responsible for the final ranking and recommendation to the Board of County Commissioners.

The Staff Evaluation Team will then review the Professional Qualifications and Written Proposal. In doing so, the team will evaluate proposals in accordance with the evaluation criteria identified in Section 6.0.

4.3 **Presentation**

Upon review and evaluation, the Department Head, along with the Staff Evaluation Team, may select no fewer than three (3) of these Consultants for presentations. The Consultants shall then further detail their qualifications, approach to the project and ability to furnish the required services during oral presentations. These presentations shall be made at no cost to Alachua County. (Staff Evaluation Team has the option of waiving this phase of the process upon approval by the Purchasing Division).

4.4 **Selection and Ranking**

Department Head, along with the Staff Evaluation Team, shall then select and rank the Consultants, in order of preference, who are deemed to be the most highly qualified to perform the required services.

4.5 **Negotiation of Contract**

The County will negotiate a contract with the top ranked Consultant for the provision of these services. Should the County be unable to negotiate a satisfactory contract, negotiations will be terminated and

negotiations will be initiated with the second most qualified Consultant. Should the County be unable to negotiate a satisfactory contract with the second most qualified Consultant, negotiations will be terminated and negotiations will be initiated with the third most qualified Consultant. Should the County be unable to negotiate a satisfactory contract with any of the selected Consultants, then the County may select additional Consultants from those whose Statement of Qualifications are on file in order of their competence and qualifications and continue negotiations until a satisfactory contract is reached.

5.0 **PROPOSAL REQUIREMENTS AND ORGANIZATION:**

Proposals must be submitted setting forth the information called for below in the format required. Each proposal should contain the following:

5.1 **Letter of Interest**

Consultants should include a letter indicating the Consultant's interest in and knowledge of the project and willingness to provide the services.

5.2 **Project Understanding and Approach**

This section should include a narrative necessary to show that the Consultant has an understanding of the scope and objectives to be performed in this project. The Consultant should describe the approach to the provision of services as required herein and the specific work plan to be employed to implement it. Indicate how this project will fit into the total workload of the Consultant during the project period.

5.3 **Consultant's Qualifications and Staff**

Identify the manager and key staff who would be directly assigned to this project. Provide resumes to include years of experience within the area of specialty, length of service with the Consultant and knowledge of local government.

5.3.1 Summary of the Consultant's current workload and ability to satisfy the County requirements.

5.3.2 A brief statement shall be included, on the Consultant's background, organization and size.

5.3.3 The one person designated to act as primary liaison between the Consultant and the County. In addition, an alternate must be designated to act in the temporary absence of the primary liaison.

5.3.4 If any services are to be subcontracted, then those Consultants must be identified. Qualifications of any sub-consultant(s) and resumes of the individual(s) assigned to the projects are to be furnished as part of the submittal.

5.3.5 Consultants shall demonstrate experience in the scope of services required herein. Describe in detail any prior experience.

5.4 **Ability of Consultant's Professional Personnel**

5.5 **Ability to Meet Time and Budget Requirements**

5.6 **Effect of Project Team Location on Project Responses**

5.7 **Appendix**

The Appendix should include the following information:

5.7.1 List of verifiable references, for whom the Consultant has performed these type services. List any installations performed for governmental entities. The following should be provided for each reference listed:

5.7.1.1 Name, title, address and phone number of the individual within the organization for whom the work was performed who can be contacted in regards to the project.

5.7.1.2 The name(s) of the Manager or key staff person(s) who worked on the project.

5.7.2 Completed Subconsultants Form, if applicable **EXHIBIT A**.

5.7.3 Completed Good Faith Effort Form, if applicable **EXHIBIT B** (Note: If your company as the prime vendor will perform all work and no subcontractors will be utilized you must complete a Good Faith Effort Form, **EXHIBIT B**).

- 5.7.4 Certified Small Business Enterprise Points Request Form **EXHIBIT C**.
- 5.7.5 Completed Drug Free Workplace Form, if applicable **EXHIBIT D**.
- 5.7.6 Completed Volume of Previous Work Summary Form **EXHIBIT G**.
- 5.7.7 Signature and Acknowledgement of Addendum Form **EXHIBIT H**.
- 5.7.8 Completed Public Record Declaration or Claim of Exemption Form **EXHIBIT I**.
- 5.7.9 A copy of the selected Consultant's current Florida Professional Registration Certificate, if applicable.
- 5.7.10 A statement of the Consultant's equal opportunity policies and practices.
- 5.7.11 Copy of current Alachua County Small Business Certification, where applicable.

6.0 **SELECTION AND EVALUATION CRITERIA**

Proposals will be evaluated in accordance with the procedures described in the County's Professional Services Evaluation Handbook. A Team comprised of County staff will evaluate the proposals in four stages: Technical Qualifications Evaluation, Written Proposal Evaluation, Presentation/Interview Evaluation, and Other Factors as deemed appropriate. The County shall consider the ability of the firm's professional personnel; willingness to meet time and budget requirements; workload; location; past performance; whether a Consultant is a certified Small Business Enterprise; volume of previous work with the County; and location. The Evaluation process provides a structured means for consideration of all these areas.

6.1 **Technical Qualifications Evaluation**

The Technical Qualifications Evaluation will assess each responding Consultant's ability based on experience and qualifications of key staff members, the Consultant's capability of meeting time and budget requirements, whether a Consultant is a certified Small Business Enterprise, volume of work previously awarded the Consultant by the County and the Consultant's record with regard to this type of work, particularly in the County or in Florida. This stage does not involve review and evaluation of a proposal addressing the project scope of work. Consideration will be given to the Consultant's current work load, financial stability, and the location where the majority of the technical work will be produced. The Staff Evaluation Team will not be impressed with excessive amounts of boilerplate, excessive numbers of resumes, excessive length of resumes, excessive numbers of photographs, work that distant offices have performed, or work not involving personnel to be assigned to the proposed project.

6.2 **Written Proposal Evaluation**

The Written Proposal Evaluation will assess the Consultant's understanding of the proposed approach to be undertaken as addressed in a written proposal. The Staff Evaluation Team will assess how effectively the requirements of the scope of services have been addressed. The written proposal should identify a project manager and other key members of the project team and the proposed project schedule. It should relate the capabilities of the project team to the requirements of the scope of services.

6.3 **Presentation/Interview Evaluation**

The Proposal Presentation/Interview Evaluation is based on an oral presentation to the Staff Evaluation Team that addresses both the technical qualifications of the Consultant and the approach to the project. Importance is given to the Consultant's understanding of the project, the placement of emphasis on various work tasks, and response to questions. The Staff Evaluation Team will assess the project manager's capability and understanding of the project and her/his ability to communicate ideas. The role of key members of the project team should be established based on the scope of services and the Consultant's approach to the project. The role of any subcontracted Consultant in the proposal should be clearly identified. Unique experience and exceptional qualifications may be considered with emphasis on understanding of the project, particularly "why it is to be done" as well as "what is to be done." The Staff Evaluation Team will not be impressed with excessive boilerplate, excessive participation by "business development" personnel, and the use of "professional" presenters who will not be involved in the project or future presentations.

6.4 **Other factors**

The Other Factors to be considered, but not limited to, are those items, such as Small Business Enterprise status, past performance, and previous amount of work for Alachua County. Fee proposals, when requested and deemed appropriate, are also to be considered in the evaluation process, where the request for such fees is in accordance with the County's Purchasing Code.

7.0 **PROFESSIONAL RESPONSIBILITY**

All services shall be provided with the skill and care which would be exercised by comparable qualified professionals performing similar services at the time and place such services are performed.

Individual or Consultant shall accept full responsibility for the work as described herein.

- 7.1 The selected proposer/Consultant shall provide a Certificate of Insurance to the County with a Thirty (30) day notice of cancellation. **EXHIBIT E**

If the initial insurance expires prior to the completion of the work, a renewal certificate shall be furnished Thirty (30) days prior to the date of expiration.

7.2 **Performance Bond**

A performance bond and payment bond in an amount equal to one hundred percent (100%) of the contract sum will be required of the successful bidder. No bidder may withdraw his bid for a period of ninety (90) days after the actual date of the opening thereof. **EXHIBIT J and EXHIBIT K**

8.0 **GENERAL TERMS AND CONDITIONS**

The following are the general terms and conditions, supplemental to those stated elsewhere in the Request for Proposal, to which the selected Consultant must comply in order to be consistent with the requirements for this Request for Proposal. Any deviation from these or any other stated requirements should be listed as exceptions in a separate appendix of the proposal.

8.1 **Assignment of Personnel**

All personnel assigned to the project will be subject to the approval of the County and no changes shall be allowed unless prior written approval is obtained.

8.2 **Basis for Contract Negotiation**

The proposal will serve as the basis for negotiating the contract.

8.3 **Term of the Contract**

The contract shall be effective for the period beginning with the date of executed contract and continuing through completion of work.

8.4 **Reuse of Existing Plans** - Not applicable.

8.5 **Governing Law**

This agreement shall be governed in accordance with the laws of the State of Florida. Venue shall be in Alachua County.

8.6 **Permits, Laws & Regulations**

The selected Consultant shall obtain and pay for all necessary permits, permit application fees, licenses or any fees required.

The selected Consultant shall comply with all laws, ordinances, regulations and building code requirements applicable to the work contemplated in the proposal. The selected Consultant is presumed to be familiar with all state and local laws, ordinances, code rules and regulations that may in any way affect the work. Ignorance on the part of the selected Consultant will in no way relieve it of responsibility.

The selected Consultant must agree to abide by and conduct its programs and provide its services in compliance with the provisions of the Civil Rights Act of 1866, Civil Rights Act of 1871, Equal Pay Act of 1963, Civil Rights Act of 1964, Age Discrimination and Employment Acts of 1967, Rehabilitation Act of 1973, 1990 Americans with Disabilities Act, 1991 Federal Civil Rights Act, 1992 Florida Civil Rights Act, and all other applicable ordinances, statutes, laws and amendments thereto.

8.7 **Award of Contract(s)**

The County reserves the right to award contracts to more than one (1) Consultant as determined to be in the best interest of the County.

8.8 **Assignment of Interest**

Any individual or Consultant shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of the County.

8.9 **Indemnification**

The Consultant agrees to protect, defend, indemnify, and hold the County and Director and their officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or directly or indirectly relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this agreement and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc., including but not limited to personal injury, death, damage to property (including destruction) defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule, or regulation or decree of any court, shall be included in the indemnity hereunder. The Consultant further agrees to investigate, handle, respond to, provide defense (including payment of attorney fees up to and including any appeal) for and defend any such claim at its sole cost and expense and agrees to bear all other costs and expenses related thereto, even if they (claims, etc.) are groundless, false, or fraudulent. Consultant agrees that indemnification of the County shall extend to any and all work performed by the Consultant, its subconsultants, employees agents, servants or assigns.

This obligation shall in no way be limited in any nature whatsoever by any limitation on the amount or type of Consultant's insurance coverage. This indemnification provision shall survive the termination of the Contract between the County and the Consultant.

Nothing contained herein shall constitute a waiver by the County of sovereign immunity or the provisions of §768.28, Florida Statutes. Furthermore, the parties agree that any duty of the County to indemnify or defend any entity under this contract is limited by the limits of liability set forth in §768.28, Florida Statutes. Specifically, the County shall not be liable to pay a claim or a judgment, based on a duty to indemnify or defend and arising out of this contract, which exceeds the sum of \$100,000, or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the County arising out of the same incident or occurrence, exceeds the sum of \$200,000.

8.10 **Amendments**

This agreement may be amended by mutual written agreement of the parties and may be changed only by such written amendment.

8.11 **Default and Termination**

The failure of either party to comply with any provision of the contract shall place that party in default. Prior to terminating the contract, the non-defaulting party shall notify the defaulting party in writing. Notification shall make specific reference to the provision which gave rise to the default.

The defaulting party shall be given seven (7) days in which to cure the default. The Department Director is authorized to provide written notice of default on behalf of the County, and if the default situation is not corrected within the allotted time, the County Manager is authorized to provide final termination notice on behalf of the County to the selected Consultant.

The County may terminate the contract without cause by first providing at least 24 hours written notice to the selected Consultant prior to the termination date. The County's Department Director is authorized to provide written notice of termination on behalf of the County.

In the event funds to finance the contract become unavailable, the County may terminate the contract with no less than twenty-four hours notice in writing to the selected Consultant. The County shall be the final authority as to the availability of funds.

8.12 **Successors and Assigns**

The County and selected Consultant each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this agreement, and any assignment or transfer by the selected Consultant of its interest in the contract without the written consent of the County shall be void. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County or the selected Consultant, nor shall it be construed as giving any right or benefit hereunder to anyone other than the County or the selected Consultant.

8.13 **Non Waiver**

The failure of either party to exercise any right shall not be considered a waiver of such right in the event of any further default or non compliance.

8.14 **Independent Consultant**

In the performance of this agreement, the Consultant will be acting in the capacity of an independent Consultant and not as an agent, employee, partner, joint venturer, or associate of the County. The Consultant shall be solely responsible for the means, method, technique, sequences, and procedures utilized by the Consultant in the full performance of the agreement.

8.15 **Collusion**

8.15.1 The bidder, by affixing his signature to the Signature and Acknowledgement of Addendum Form **EXHIBIT H**, declares that the bid is made without any previous understanding, agreement, or connections with any persons, Consultants or corporations making a bid on the same items and that it is in all respects, fair, and in good faith without any outside control, collusion, or fraud.

8.15.2 The bidder, by affixing his signature to the Signature and Acknowledgement of Addendum Form **EXHIBIT H**, declares that no County Commissioner, other County officer, or County employee, directly or indirectly owns more than five (5) percent of the total assets or capital stock of the bidding entity, nor will directly or indirectly benefit by more than five (5) percent from the profits or emoluments of the contract.

PROPOSED SUBCONTRACTORS FORM (NOT APPLICABLE)**BID NUMBER: 10-427; Construction Manager at Risk for the Alachua County Jail HVAC & Roof Replacement Project**

I certify that our Company, listed below, is an Alachua County Certified Small Business Enterprise registered prior to opening for the above Bid/RFP.

Name of Company	Address	____/____/____ Phone Number
Signature	Title	____/____/____ Date

The undersigned representative of the Bidder states that the Bidder has contacted Alachua County's certified Small Business Enterprises (SBEs) listed below. The SBEs have agreed to perform the work for **the total dollar value and percentage of the bid/contract** set forth below. The undersigned representative of the Bidder further states that the following information regarding SBE Subcontractors is true and correct to the best of his or her knowledge and belief.

Signature	Title	____/____/____ Date
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<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="height: 30px;"> </td></tr> <tr> <td style="width: 60%;">Name of Contractor Yes/No</td> <td style="width: 40%;">SBE?</td> </tr> <tr><td colspan="2">Address</td></tr> <tr><td colspan="2">Scope of Work to be Performed</td></tr> <tr> <td>\$ _____ (Total \$ Value)</td> <td>_____ % (% of Total Bid/RFP)</td> </tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2"> </td></tr> <tr> <td>Name of Contractor Yes/No</td> <td>SBE?</td> </tr> <tr><td colspan="2">Address</td></tr> <tr><td colspan="2">Scope of Work to be Performed</td></tr> <tr> <td>\$ _____ (Total \$ Value)</td> <td>_____ % (% of Total Bid/RFP)</td> </tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2"> </td></tr> <tr> <td>Name of Contractor Yes/No</td> <td>SBE?</td> </tr> <tr><td colspan="2">Address</td></tr> <tr><td colspan="2">Scope of Work to be Performed</td></tr> <tr> <td>\$ _____ (Total \$ Value)</td> <td>_____ % (% of Total Bid/RFP)</td> </tr> </table>		Name of Contractor Yes/No	SBE?	Address		Scope of Work to be Performed		\$ _____ (Total \$ Value)	_____ % (% of Total Bid/RFP)					Name of Contractor Yes/No	SBE?	Address		Scope of Work to be Performed		\$ _____ (Total \$ Value)	_____ % (% of Total Bid/RFP)					Name of Contractor Yes/No	SBE?	Address		Scope of Work to be Performed		\$ _____ (Total \$ Value)	_____ % (% of Total Bid/RFP)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="height: 30px;"> </td></tr> <tr> <td style="width: 60%;">Name of Contractor</td> <td style="width: 40%;">SBE? Yes/No</td> </tr> <tr><td colspan="2">Address</td></tr> <tr><td colspan="2">Scope of Work to be Performed</td></tr> <tr> <td>\$ _____ (Total \$ Value)</td> <td>_____ % (% of Total Bid/RFP)</td> </tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2"> </td></tr> <tr> <td>Name of Contractor</td> <td>SBE? Yes/No</td> </tr> <tr><td colspan="2">Address</td></tr> <tr><td colspan="2">Scope of Work to be Performed</td></tr> <tr> <td>\$ _____ (Total \$ Value)</td> <td>_____ % (% of Total Bid/RFP)</td> </tr> <tr><td colspan="2"> </td></tr> <tr><td colspan="2"> </td></tr> <tr> <td>Name of Contractor</td> <td>SBE? Yes/No</td> </tr> <tr><td colspan="2">Address</td></tr> <tr><td colspan="2">Scope of Work to be Performed</td></tr> <tr> <td>\$ _____ (Total \$ Value)</td> <td>_____ % (% of Total Bid/RFP)</td> </tr> </table>		Name of Contractor	SBE? Yes/No	Address		Scope of Work to be Performed		\$ _____ (Total \$ Value)	_____ % (% of Total Bid/RFP)					Name of Contractor	SBE? Yes/No	Address		Scope of Work to be Performed		\$ _____ (Total \$ Value)	_____ % (% of Total Bid/RFP)					Name of Contractor	SBE? Yes/No	Address		Scope of Work to be Performed		\$ _____ (Total \$ Value)	_____ % (% of Total Bid/RFP)
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If SBE subcontractors are **not available** for the bid/RFP, a Good Faith Effort Form, EXHIBIT B, **must be completed**.

GOOD FAITH EFFORT FORM (NOT APPLICABLE)

This form must be completed if you do not have SBEs participation or if your company as the prime vendor will perform all work and no subcontractors will be utilized for this RFP.

BID NUMBER: 10-427; Construction Manager at Risk for the Alachua County Jail HVAC & Roof Replacement Project

Vendor/Company Name: _____ Phone: _____

In accordance with Section 22.36 of the Alachua County Purchasing Code and section 31.0 of this document, the undersigned vendor hereby certifies that **(VENDOR MUST CHECK ONE OF THE FOLLOWING)**:

- The County's SBE directory did not have any vendors available for the above Bid/RFP services.
- I, representing the above company, have solicited and received responses from the following certified SBE companies listed below.
- I certify that our Company as the prime vendor will perform all work and no subcontractors will be utilized for this Bid/RFP.

Signature

Title

Date

1	Name of SBE Company:	Date SBE Contacted
SBE Contact Name:		/ /
SBE Response:		

2	Name of SBE Company:	Date SBE Contacted
SBE Contact Name:		/ /
SBE Response:		

3	Name of SBE Company:	Date SBE Contacted
SBE Contact Name:		/ /
SBE Response:		

4	Name of SBE Company:	Date SBE Contacted
SBE Contact Name:		/ /
SBE Response:		

5	Name of SBE Company:	Date SBE Contacted
SBE Contact Name:		/ /
SBE Response:		

6	Name of SBE Company:	Date SBE Contacted
SBE Contact Name:		/ /
SBE Response:		

CERTIFIED SMALL BUSINESS ENTERPRISE POINTS REQUEST FORM FOR RFP's

The Technical Qualifications Evaluation phase of the Professional Services Evaluation Process assesses whether a Consultant is a certified Small Business Enterprise (SBEs) and provides for the allotting of points where the Consultant includes in their submittal a request for points allowed for Alachua County's Certified SBEs' participation in accordance with the options listed below and the necessary documentation to substantiate such is provided.

CERTIFIED SMALL BUSINESS ENTERPRISE (SBEs)- REQUEST FOR POINTS 15 POINT MAXIMUM					
Points for Certified Small Participation is to be awarded using one of the options below:			Points Allowed	Points Requested	Points Assigned
Fifteen (15) points are awarded to the Consultant if the Consultant is a certified Small Business Enterprise (per Alachua County's current SBE registry at the time set for receipt of submittals) and at least 51% of the job will be performed by the Consultant.			15 pts		
Eight (8) to thirteen (13) points are awarded if the Consultant commits to a significantly higher certified Small Business Enterprise participation than the goal, based on the breakdown indicated below:			8 pts - 13 pts	Not applicable	Not applicable
Percentage of Certified Small Participation:					
at least but less than Points to be Awarded					
25% 30% 8 Points					
30% 35% 9 Points					
35% 40% 10 Points					
40% 45% 11 Points					
45% 50% 12 Points					
50% 51% 13 Points					
Five (5) points are awarded to a Consultant who has committed to meet the percentage participation goal of 15% as established by the Board of County Commissioners and the Consultant has listed the certified small business(es) and clearly stated the work and percentages of the job that those business(es) will perform.			5 pts	Not applicable	Not applicable

DRUG FREE WORKPLACE

Section 22.09 Competitive Sealed Bidding of the Alachua County Purchasing Code states that in the evaluation of bids, all factors in the bidding process being equal, both as to dollar amount and ability to perform, priority will be given, first, to those vendors certifying a drug-free workplace, secondly, to certified Small Business Enterprise (SBE) bidders.

The undersigned vendor in accordance with Florida Statute 287.087 and Section 22.09 of the Alachua County Purchasing Code hereby certifies that

Name of Business

does:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Bidder's Signature

Date

**INSURANCE REQUIRED
TYPE "A" INSURANCE REQUIREMENTS
"ARTISAN CONTRACTORS / SERVICE CONTACTS"**

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors.

I. COMMERCIAL GENERAL LIABILITY.

Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 General Aggregate, \$1,000,000 Products / Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury Liability, \$1,000,000 each Occurrence, \$50,000 Fire Damage Liability and \$5,000 Medical Expense.

II. AUTOMOBILE LIABILITY.

Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$1,000,000 combined single limit each accident.

III. WORKERS COMPENSATION AND EMPLOYER'S LIABILITY.

- A Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act.
- B Employer's Liability limits for not less than \$100,000 each accident; \$500,000 disease policy limit and \$100,000 disease each employee must be included.

IV. BUILDER'S RISK / INSTALLATION FLOATERS.

- A When this contract or agreement includes the construction of and/or the addition to a permanent structure or building; including the installation of machinery and/or equipment, the following insurance coverage must be afforded:
- B Coverage Form: Completed Value, All Risk in an amount equal to 100% of the value upon completion or value of equipment to be installed.
- C When applicable: Waiver of Occupancy Clause or Cessation of Insurance clause. Flood Insurance as available under the National Flood Insurance Program.

OTHER INSURANCE PROVISIONS.

The policies are to contain, or be endorsed to contain, the following provisions:

- D Commercial General Liability and Automobile Liability Coverages
 - 1 The Alachua County Board of County Commissioners, its officials, employees and volunteers are to be covered as an Additional Insured as respects: Liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.
 - 2 The Contractor's insurance coverage shall be considered primary insurance as respects the County, its officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officials, employee's or volunteers shall be excess of Contractor's insurance and shall be non-contributory.
- E Workers' Compensation and Employers' Liability Coverages
 - 1 The insurer shall agree to waive all rights of subrogation against the County, for losses arising from work performed by the Contractor for the County.

F All Coverages

- 1 The Contractor shall provide a Certificate of Insurance to the County with a Thirty (30) day notice of cancellation. The certificate shall indicate if cover is provided under a "claims made" or "per occurrence" form. If any cover is provided under a claims made form the certificate will show a retroactive date, which should be the same date of the contract (original if contract is renewed) or prior.

V. **SUBCONTRACTORS.**

Contractors shall include all subcontractors as insured under its policies. All subcontractors shall be subject to the requirements stated herein.

CERTIFICATE HOLDER:

Alachua County Board of County Commissioners

MAIL or FAX CERTIFICATES TO:

**Ebix
212 Kent Street
PO Box 257
Portland, MI 48875
Ph. 517-647-1700
Fax 517-647-7900**

STATEMENT OF NO PROPOSAL

We the undersigned have declined to provide a submittal on your RFP No. **10-427** for **Construction Manager at Risk for the Alachua County Jail HVAC & Roof Replacement Project** Parks for the **Facilities Management** for the following reasons:

☐

We do not offer this service

☐

Our schedule would not permit us to perform

☐

Unable to meet specifications

☐

Other (specify below)

We understand that if this Statement of No Proposal is not executed and returned, our name may be deleted from the list of qualified offerors for Alachua County.

Company Name: _____

Signature: _____

Telephone: _____

Date: _____

Alachua County Purchasing Division, Third Floor
County Administration Building
12 SE 1st Street
Gainesville, Florida 32601-6983
(352)374-5202
(352)491-4569 (Fax)

VOLUME OF PREVIOUS WORK SUMMARY

TO BE FILLED OUT ONLY BY CONSULTANTS HAVING HAD WORK WITH ALACHUA COUNTY
DURING THE PERIODS INDICATED IN THE SUMMARY ABOVE

For the APPLICANT: List all currently active, adjusted* fees and contract numbers for contracts awarded by Alachua County for ALL offices and, indicate total adjusted fees executed for the periods noted below. ADJUSTED FEES OF APPLICANT UNDER CONTRACT(S) WITH ALACHUA COUNTY ARE TO BE LISTED ACCORDING TO DATE OF AGREEMENTS FOR THE PERIODS NOTED. If proposer has not been awarded any work by Alachua County, proposer should indicate such by placing "not applicable" or "N/A" under the total adjusted fee column.

PERIOD	TOTAL ADJUSTED FEE	FACTOR	PORTION OF FEE CONSIDERED
Current and last year (Oct 1 – Sept 30)	\$	X 1.0	\$
Second year past (Oct 1 – Sept 30)	\$	X 0.8	\$
Third year past (Oct 1 - Sept 30)	\$	X 0.6	\$
TOTAL ADJUSTED FEE CONSIDERED			\$

VOLUME OF WORK REPORT – DETAIL

DATES OF AGREEMENT	PROJECT TITLE	ADJUSTED FEE
		\$
		\$
		\$
		\$
		\$

VOLUME OF PREVIOUS WORK - POINTS EARNED

POINTS	ADJUSTED FEE (AF) *	YOUR REQUESTED AF POINTS
5	AF < 50,000	_____ points \$ _____
4	50,000 < AF < 100,000	
3	100,000 < AF < 200,000	
2	200,000 < AF < 300,000	
1	300,000 < AF < 400,000	
0	AF > 400,000	

*ADJUSTED FEES: Fees rendered to the Consultant by Alachua County minus fees subcontracted out by the Consultant plus fees for which the Consultant is a subconsultant.

SIGNATURE AND ACKNOWLEDGMENT OF ADDENDUM FORM

RFP NUMBER: **10-427**

PROPOSAL OPENING DATE: **2:00 pm, Wednesday, July 7, 2010**

RE: **Construction Manager at Risk for the Alachua County Jail HVAC & Roof Replacement Project**

PLACE OF BID OPENING: Alachua County Purchasing Division, Third Floor
County Administration Building
12 SE 1st Street
Gainesville, Florida 32601-6983

Acknowledge Receipt of Addendum(s) (if applicable circle): #1 Yes No #2 Yes No #3 Yes No

Bidder: _____ Company: _____

Address: _____

Authorized Signature: _____ Title: _____

Clearly Print Signature: _____ Title: _____

PHONE: _____-_____-_____- FAX: _____-_____-_____- DATE: _____

Email Address: _____

PUBLIC RECORD DECLARATION OR CLAIM OF EXEMPTION

As a bidder or proposer, any document you submit to Alachua County may be a public record and be open for personal inspection or copying by any person. In Florida 'public records' are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. Section 119.011(11), F.S. A document is subject to personal inspection and copying unless it falls under one of the public records exemptions created under Florida law. Please designate what portion of your bid or proposal, if any, qualifies to be exempt from inspection and copying:

(execute either section I. or II., but not both; bidder may not modify language)

I. NO EXEMPTION FROM PUBLIC RECORDS LAW

No part of the bid or proposal submitted is exempt from disclosure under the Florida public records law, Ch. 119, F.S.

Bidder's Signature

Date

II. EXEMPTION FROM PUBLIC RECORDS LAW AND AGREEMENT TO INDEMNIFY AND DEFEND ALACHUA COUNTY

The following parts of the bid or proposal submitted are exempt from disclosure under the Florida public records law because: (list exempt parts and legal justification. i.e. trade secret):

By claiming that all or part of the bid or proposal is exempt from the public records law, the undersigned bidder or proposer agrees to protect, defend, indemnify, and hold the County, its officers, employees and agents free and harmless from and against any and all claims arising out of a request to inspect or copy the bid or proposal. The undersigned bidder or proposer agrees to investigate, handle, respond to, provide defense (including payment of attorney fees, court costs, and expert witness fees and expenses up to and including any appeal) for and defend any such claim at its sole cost and expense through counsel chosen by the County and agrees to bear all other costs and expenses related thereto, even if they (claims, etc.) are groundless, false, or fraudulent.

Bidder's Signature

Date

July 26, 2006

PAYMENT BOND

CONTRACTOR (PRINCIPAL)

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

SURETY

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

OWNER (OBLIGEE)

NAME: Alachua County Board of County Commissioners

PRINCIPAL BUSINESS ADDRESS: 12 S.E. First Street, Gainesville, Florida 32601

TELEPHONE NUMBER: 352-374-5204

CONTRACT DETAILS

DATE EXECUTED:

AMOUNT:

GENERAL DESCRIPTION:

STREET ADDRESS OF PROJECT:

PO #, RFP, OR BID #:

BOND

BOND NUMBER:

DATE:

AMOUNT:

KNOW ALL MEN BY THESE PRESENTS:

That Principal, hereinafter called Contractor, and Surety, as identified above, are bound to the Board of County Commissioners of Alachua County, Florida, as Obligee, hereinafter called the County, in the amount identified above, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

This payment bond is executed pursuant to section 225.05, F.S., and claimants must comply with the notice and time limitations of section 225.05(2). F.S.

WHEREAS, Contractor has by written agreement entered into a contract, identified above, with Alachua County, which contract documents are by reference made part hereof, and for the purposes of this Bond are hereafter referred to as the "Contract."

THE CONDITION OF THIS BOND is that if Contractor promptly makes payments to all persons defined in section 713.01, Florida Statutes, who furnish labor, materials and supplies used directly or indirectly by Contractor in the performance of the Contract; then CONTRACTOR'S OBLIGATION SHALL BE VOID; OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT.

The surety hereby waives notice of and agrees that any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect surety's obligation under this bond.

Signed and sealed this _____ day of _____, 20_____.

CONTRACTOR (PRINCIPAL)

SIGNATURE: _____
CORPORATE SEAL

PRINTED NAME AND TITLE: _____

SURETY

SIGNATURE: _____
SEAL

PRINTED NAME AND TITLE: _____
ATTORNEY IN FACT

PERFORMANCE BOND

CONTRACTOR (PRINCIPAL)

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

SURETY

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

OWNER (OBLIGEE)

NAME: Alachua County Board of County Commissioners

PRINCIPAL BUSINESS ADDRESS: 12 S.E. First Street, Gainesville, Florida 32601

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PO #, RFP, OR BID #:

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BOND NUMBER:

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WHEREAS, Contractor has by written agreement entered into a contract, identified above, with County, which contract documents are by reference made a part hereof, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Contractor:

1. performs the Contract between Contractor and County, at the times and in the manner prescribed in the Contract; and
2. pays County all losses, damages, including liquidated damages and damages caused by delay, expenses, costs and attorneys fees including appellate proceedings, that County sustains as a result of default by Contractor under the Contract; and
3. performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract;

then THIS BOND IS VOID, OTHERWISE IT REMAINS IN FULL FORCE AND EFFECT.

Whenever Contractor shall be, and is declared by County to be, in default under the Contract, and County having performed County's obligations there under, the Surety may promptly remedy the default, or shall promptly:

1. complete the Contract in accordance with its terms and conditions; or
2. obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if County elects, upon determination by County and Surety jointly of the lowest responsible bidder, arrange for a contract between such Bidder and County, and make available as work progresses sufficient funds, paid to County, to pay the cost of completion and other costs and damages for which the Surety may be liable hereunder.

No right of action shall accrue on this bond to or for the use of any person or corporation other than County named herein.

The surety hereby waives notice of and agrees that any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect Surety's obligation under this bond.

Signed and sealed this _____ day of _____, 20_____.

CONTRACTOR (PRINCIPAL)

SIGNATURE: _____
CORPORATE SEAL

PRINTED NAME AND TITLE: _____

SURETY

SIGNATURE: _____
SEAL

PRINTED NAME AND TITLE: _____
ATTORNEY IN FACT

SAMPLE

AGREEMENT



BUILDING

CONSTRUCTION MANAGEMENT CONTRACT WITH A GUARANTEED
MAXIMUM PRICE BETWEEN

ALACHUA COUNTY, FLORIDA

AND

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SAMPLE

CONSTRUCTION MANAGEMENT AGREEMENT

ALACHUA COUNTY, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners (“Owner” or “County”), hereby contracts with _____. (“Construction Manager”), a Florida corporation, to perform all work (“Work”) in connection with the management and construction of the _____ (“Project”), _____ said Work being set forth in the plans and specifications being prepared by _____, the Architect and/or Engineer of Record (“Design Professional”) and all other Contract Documents hereafter specified.

Owner and Construction Manager, for the consideration herein set forth, agree as follows:

Section 1. Contract Documents

- A. The Contract Documents consist of this Agreement, the Exhibits described in Section 8 hereof, and any duly executed and issued addenda, Change Orders, Construction Change Directives, Field Orders and amendments relating thereto. Further, the term Contract Documents shall include all plans and specifications for the construction of the Project (“Construction Documents”) being prepared by Design Professional, but only after said Construction Documents have been completed by Design Professional and approved in writing by Owner. All of the foregoing Contract Documents are sometimes referred to herein as the “Contract”.
- B. Owner shall furnish Construction Manager with one (1) sealed copy and one (1) reproducible set of the Construction Documents. Any additional copies of Construction Documents, required by Construction Manager for execution of the Work, shall be made by Construction Manager from its reproducible set at Construction Manager’s sole cost and expense. The reproducible set of the Construction Documents shall be returned to Owner upon final acceptance of the Work or termination of the Contract, whichever occurs first. Provided, however, Owner is furnishing Construction Manager a reproducible set of Construction Documents for Construction Manager’s convenience and such furnishing by Owner shall not be deemed to be a waiver by Owner or Design Professional of any copyright, patent or license they may have with respect to the Construction Documents. All such copyrights, patents and licenses hereby being expressly reserved by Owner and Design Professional.

Section 2. Scope of Work

- A. **Description of Project.** [Describe building, location, size, necessary LEED certification] The Work to be provided by Construction Manager pursuant to this Contract shall be performed essentially in two phases. Those phases being Pre-

Construction Phase Services and Construction Phase Services. At the discretion of Owner, those two phases may overlap.

- B. **Pre-Construction Phase Services.** Construction Manager shall review and comment upon the Construction Documents being developed by Design Professional. The scope of that review shall include, but not be limited to, reviewing those various documents for value engineering and constructability. As the Construction Documents are developed by Design Professional through the various design phases set forth in the Design Professional Services Agreement between Design Professional and Owner ("Design Agreement"), Construction Manager shall provide Owner with detailed construction cost estimates with respect to those documents. Construction Manager agrees to attend any and all design and preconstruction conferences and to otherwise assist and cooperate with Design Professional with respect to the design of the Project. Construction Manager shall provide all other services during the Pre-Construction Phase of the Project as set forth in the Contract Documents.
- C. **Construction Phase Services.** After the Construction Documents have been sufficiently completed by Design Professional and approved by Owner for all of the Work (or such portions thereof as may be designated by Owner in writing), and Owner and Construction Manager have agreed in writing upon the guaranteed maximum price to be paid Construction Manager and the Contract Time for the Work (or designated portions thereof) as hereafter provided, Construction Manager shall furnish and pay for all management, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely and fully perform and complete in a good and workmanlike manner the construction of the Work (or designated portions thereof) in accordance with all of the terms and conditions of the Contract Documents. Notwithstanding anything herein to the contrary, as and to the extent expressly directed and authorized by Owner in writing, Construction Manager shall commence to construct those portions of the Work designated by Owner even though the guaranteed maximum price and/or Contract Time for the entire Work has not yet been agreed to by the parties, so long as they have agreed in writing upon the compensation to be paid Construction Manager and the performance time for such portion of the Work.

Section 3. Relationship of Parties

- A. Construction Manager accepts the relationship of trust and confidence established by this Agreement. Construction Manager covenants with Owner to cooperate with Design Professional; to utilize Construction Manager's best skill, efforts and judgment in furthering the interest of Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in the best way and the most expeditious and economical manner, consistent with the interests of Owner. Further, Construction Manager acknowledges that (i) it has represented to Owner that it has specific

expertise in the planning, management and construction of projects of similar size, cost and complexity and (ii) that such representation is a material inducement to Owner to enter into this Contract.

- B. Wherever the terms of this Contract refer to some action, consent, or approval (excluding approvals of Change Orders, Construction Change Directive or amendments to the Contract) to be provided by Owner or some notice, report or document is to be provided to Owner, such reference to "Owner" shall mean Owner, Owner's staff, or Owner's designee (to the extent such designee has been expressly authorized by Owner in writing), unless otherwise stated herein. Owner's representative is identified in Section 9.
- C. Owner may utilize the services of a Program Manager to assist it with the management of the design and construction of the Project. In the event Owner does utilize the services of a Program Manager with respect to this Project, Owner shall notify Construction Manager in writing of such decision and the Program Manager shall be deemed to be an Owner designee as referenced in Paragraph B above. Further, to the extent Construction Manager is required to name Owner as an additional insured under any insurance policy to be maintained by Construction Manager pursuant to the terms of the Contract Documents, Construction Manager shall cause the Program Manager to also be named as an additional insured party under all such policies. The Program Manager shall be Owner's representative with respect to the Project, with authority to transmit instructions, receive information, and interpret and define Owner's policies and decisions with respect to the Work. However, except as may be otherwise expressly authorized in writing by Owner, the Program Manager is not authorized on behalf of Owner to issue any verbal or written orders or instructions to Construction Manager that would have the affect, or be interpreted to have the affect, of amending or modifying the terms or conditions of the Contract Documents or modifying or amending in any way whatever the: (1) scope or quality of Work to be performed and provided by Construction Manager as set forth in the Contract Document; (2) the time within which Construction Manager is obligated to complete the Work; or (3) the amount of compensation Owner is obligated or committed to pay Construction Manager as set forth in the Contract Documents.
- D. Construction Manager hereby designates [REDACTED], as its Project Manager, with full authority to bind and obligate Construction Manager on all matters arising out of or relating to the Work or the Contract Documents. Construction Manager agrees that the Project Manager shall devote whatever time is required to satisfactorily manage the Work and further agrees that the Project Manager shall not be removed or replaced by Construction Manager without Owner's prior approval, which approval shall not be unreasonably withheld.

- E. Construction Manager shall serve, if requested, as a temporary member of the County's Art in Public Places Trust to carry out the purposes of Chapter 29, Art in Public Places, Alachua County Code of Ordinances.

Section 4. Contract Amount

- A. In consideration of the full and faithful performance by Construction Manager of the covenants in this Contract, Owner agrees to pay, or cause to be paid, to Construction Manager the following amounts (herein "Contract Amount"), in accordance with the terms of this Contract:

- B. **Pre-Construction Phase Services.** For all Pre-Construction Phase Services, including, but not limited to, providing value engineering services, reviewing Construction Documents for constructability, assisting and meeting with Design Professional during the various design phases, and preparing cost estimates, Construction Manager shall be paid in the following manner:

(1)	Conceptual schematic estimate:	\$ _____
(2)	Schematic design:	\$ _____
(3)	Design development:	\$ _____
(4)	50% Construction documents:	\$ _____
(5)	100% Construction docs and GMP:	\$ _____

- C. Invoices shall be submitted for each payment request and be in a form reasonably acceptable to Owner. The final invoice shall not be submitted until either (i) the GMP Amendment is executed for the entire Work, or (ii) the parties fail to reach agreement on the GMP Amendment and Owner elects to terminate this Contract as provided in section 4.B hereafter, whichever occurs first.

- D. **Construction Phase.** With respect to the Construction Phase Services to be provided by Construction Manager hereunder, Owner shall reimburse Construction Manager for the Cost of the Work (as that term is defined hereafter), and pay Construction Manager a fixed Construction Management Fee of 6% of the estimated Cost of the Work, as that estimate is established at the time the GMP is initially set by the parties. The Construction Management Fee shall be Construction Manager's total compensation for all overhead not reimbursable as Cost of the Work under Section 5.A. below, as well as Construction Manager's total profit for Construction Phase Services. Construction Manager agrees to provide Owner with a guaranteed maximum price proposal for the total sum of the Construction Management Fee plus the Cost of the Work within 45 days after the Construction Documents in Owner's

opinion are sufficiently completed by Design Professional and approved in writing by Owner. The guaranteed maximum price proposal shall be based upon the previous cost estimates provided by Construction Manager as required hereunder. Further, the proposal shall be broken down into the categories and level of detail required by Owner. Construction Manager agrees that all of its books, records and files, with respect to its development of the guaranteed maximum price proposal, shall be open to Owner for review and copying. Employee's personal information is excluded, if exempt under Ch. 119, F.S. The final guaranteed maximum price shall be mutually agreed upon by Owner and Construction Manager and shall be set forth in the GMP Amendment ("GMP"). The form for GMP Amendment is attached hereto as Exhibit K. Construction Manager shall provide a detailed breakdown acceptable to Owner of its guaranteed maximum price proposal, as well as for the GMP. For each line item in the GMP, Construction Manager shall develop and maintain a written report which identifies and explains all variances and deviations from the bid amount originally submitted for that line item, to the final line item price incorporated into the GMP. The Construction Manager guarantees that in no event shall the Construction Management Fee and the total Cost of the Work exceed the GMP, as the GMP may be adjusted pursuant to the terms herein for Change Orders and Construction Change Directives. In the event Construction Manager and Owner fail to reach an agreement on the GMP, Owner may elect to terminate this Contract. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the Pre-Construction Phase Services earned through the date of termination plus that portion of any earned compensation associated with any Construction Phase Services provided, to the extent such services were expressly approved in advance and in writing by Owner; but Construction Manager shall not be entitled to any further or additional compensation from Owner, including but not limited to damages or lost profits on portions of the Work not performed.

Section 5. Cost of the Work

- A. **Costs to be Reimbursed.** The term Cost of the Work shall mean all costs necessarily and reasonably incurred by Construction Manager in the proper performance of the Construction Phase Services portion of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with the prior written consent of Owner only after Construction Manager has provided sufficient support in writing that exceptional circumstances exist, which justify the payment of rates higher than the standard. The Cost of the Work shall include only those items set forth below in this subsection A:

1. Labor Costs.

- a. Wages of construction workers directly employed by Construction Manager to perform the construction of the Work at the Project site or, with Owner's written agreement, at off-site workshops. Costs

to be reimbursed will be the actual wages paid to the individuals performing the work.

- b. Wages or salaries of Construction Manager's supervisory and administrative personnel who are stationed at the Project site with Owner's written agreement.
- c. Wages and salaries of Construction Manager's supervisory and administrative personnel 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 and only with Owner's written agreement as in subsection A.1.b above.
- d. The parties hereby establish the fixed markup rate of _____ % for office labor and _____ % for field labor, for all labor burden, including all taxes, insurance, contributions, assessments and benefits required by law and collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such markup is to apply only upon those wages and salaries included in the Cost of the Work under subsections A.1.a through A.1.c, above.

2. **Subcontract Costs.** Payments made by Construction Manager to subcontractors in accordance with the requirements of the applicable written subcontracts.

3. **Cost of Materials and Equipment Incorporated into the Completed Construction.**

- a. Costs, including transportation, of materials and equipment incorporated or to be incorporated in the completed construction.
- b. Costs of materials described in subsection A.3.a, above, in excess of those actually installed but required to provide reasonable allowance for waste and for spoilage. Unused excess materials, if any, shall be handed over to Owner at the completion of the Work or, at Owner's option, shall be sold by Construction Manager; amounts realized, if any, from such sales, shall be credited to Owner as a deduction from the Costs of the Work.

4. **Costs of other materials and equipment, temporary facilities and related items.**

- a. Costs, including transportation, installation, maintenance, dismantling and removal, of materials, supplies, temporary facilities (including project field offices, furniture and fixtures), temporary utilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site and fully consumed in the performance of the Work; and costs less salvage value on such items if not fully consumed, whether sold to others or retained by Construction Manager.
- b. Rental charges, at standard industry rates for the area, for temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site, whether rented from Construction Manager or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Rates and quantities of all equipment rented, whether from Construction Manager or others, shall be subject to Owner's prior written approval.
- c. Cost of removal and proper disposal of debris from the Project site.
- d. Costs of telegrams, long distance telephone calls, postage and parcel delivery charges and telephone service at the Project site and reasonable petty cash expenses of the Project site office.
- e. That portion of the reasonable travel and subsistence expenses of Construction Manager's personnel, assigned to the Project site, incurred while traveling outside of the Alachua County area in discharge of duties connected with the Work, provided all of such expenses and charges shall be subject to the prior written approval of Owner.

5. **Miscellaneous Costs.**

- a. That portion of any separate premiums for (i) bonds directly attributable to this Contract and (ii) any additional insurance coverages which are purchased by Construction Manager, with Owner's prior written approval, beyond the level of coverage specified herein.
- b. Sales, use or similar taxes imposed by a governmental authority which are related to the Work and for which Construction Manager is liable.

- c. Fees and assessments for the building permit and for other permits, licenses and inspections for which Construction Manager is required by the Contract Documents to pay.
- d. Fees of testing laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded pursuant to the terms of this Contract.
- e. Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents.
- f. Deposits lost for causes other than Construction Manager's fault or negligence.
- g. Legal, mediation and arbitration costs, other than those arising from disputes between Owner and Construction Manager, reasonably incurred by Construction Manager in performance of the Work and with Owner's prior written consent, said consent to be given or denied in Owner's sole discretion.
- h. Costs reasonably incurred in repairing or correcting damage or nonconforming Work executed by Construction Manager, or its subcontractors or suppliers, provided that such damage or nonconforming Work was not caused by (i) the negligence or failure to fulfill a specific responsibility of Construction Manager to Owner set forth in the Contract Documents, or (ii) Construction Manager's foremen, engineers, superintendents or other supervisory, administrative or managerial personnel, or (iii) the failure of Construction Manager's personnel to supervise adequately those portions of the Work to be performed by Construction Manager's subcontractors or suppliers, and only to the extent that the cost of repair or correction is not recoverable by Construction Manager from (i) insurance or bonds, (ii) any of the subcontractors or suppliers, or (iii) some other appropriate source.

6. **Other Costs.** Other costs incurred in performance of the Work if and to the extent approved in advance in writing by Owner.

B. Costs Not To Be Reimbursed. The Cost of the Work shall not include the following items:

- 1. Salaries and other compensation of Construction Manager's personnel stationed at Construction Manager's principal office or offices other than

the Project site office, unless otherwise approved in writing by Owner's representative.

2. Expenses of Construction Manager's principal office and offices other than the Project site office.
3. Overhead and general expenses, except as may be expressly included in subsection A above.
4. Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work.
5. Rental costs of machinery and equipment, except as specifically provided in subsection A.4.b above.
6. Except as expressly provided in subsection A.5.h. above, costs due to the fault or negligence of Construction Manager, subcontractors, anyone directly or indirectly employed by any of them, or for whose acts any of them may be liable, including, but not limited to, costs for the correction of damaged, defective, or nonconforming Work, disposal and replacement of materials and equipment incorrectly ordered or supplied, and making good damage to property not forming part of the Work.
7. Any costs not specifically and expressly described in subsection A above.
8. Costs which would cause the GMP to be exceeded (as the GMP may be adjusted pursuant to the terms herein for Change Order and Construction Change Directive).

C. **Discounts, Rebates and Refunds.**

1. Cash discounts obtained on payments made by Construction Manager shall accrue to Owner if (i) before making the payment, Construction Manager included them in an application for payment and received payment therefor from Owner, or (ii) Owner has deposited funds with Construction Manager with which to make payments; otherwise, cash discounts shall accrue to Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to Owner, and Construction Manager shall make provisions so that they can be secured.
2. Amounts which accrued to Owner in accordance with the provisions of subsection C.1 above shall be credited to Owner as a deduction from the Cost of the Work.

Section 6.**Bonds**

- A. Within ten (10) business days after the GMP is agreed to by Owner and Construction Manager, Construction Manager shall provide Owner with Performance and Payment Bonds, in the form prescribed in Exhibits C and D, in the amount of 100% of the total sum of the GMP, the costs of which are to be paid by Construction Manager. The Performance and Payment Bonds must comply
- B. If the surety for any bond furnished by Construction Manager is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Documents, Construction Manager shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the minimum requirements noted above and Owner's approval.
- C. In accordance with the requirements of Section 255.05(1)(a), Florida Statutes, Construction Manager shall record within 5 days in the Public Records of Alachua County, Florida, a copy of the Performance and Payment Bonds. Construction Manager shall deliver within 10 days to Owner evidence, reasonably acceptable to Owner, of the recording of said Bonds. The delivery of such evidence is a condition precedent to Owner's obligation to make any progress payments to Construction Manager hereunder.

Section 7.**Contract Time and Liquidated Damages**

- A. Time is of the essence in the performance of the Work under this Contract. The "Pre-Construction Commencement Date" shall be established in a Notice to Proceed to be issued by Owner. Construction Manager shall commence the Pre-Construction Phase Services portion of the Work within five (5) calendar days after the Pre-Construction Phase Commencement Date. Any Work performed by Construction Manager prior to the Pre-Construction Phase Commencement Date shall be at the sole risk of Construction Manager. The "Construction Phase Commencement Date" shall be established in GMP Amendment. Construction Manager shall commence the Construction Phase Services portion of the Work within five (5) calendar days after the Construction Phase Commencement Date. No portion of the Work, with respect to the Construction Phase Services to be provided hereunder, shall be performed prior to the Construction Phase Commencement Date, unless expressly approved in advance by Owner in writing. The total period of time beginning with the Construction Phase Commencement Date and ending on the date of Substantial Completion of the Work is referred to hereafter as the "Contract Time". The Contract Time is set forth with more specificity in Paragraph B below.
- B. Because the Work is to be completed in two phases, the timely completion of the first phase is critical to the timely completion of the second phase and, therefore, completion of the entire Project. Accordingly, Construction Manager agrees to

provide the Pre-Construction Phase Services in accordance with the design schedule established pursuant to the terms of the Design Agreement, after review and acknowledgement of Construction Manager. With respect to the Construction Phase Services, the GMP Amendment shall include the date that portion of the Work associated with the Construction Phase Services must be substantially completed by Construction Manager. That Substantial Completion date shall be established in terms of calendar days after the Construction Phase Commencement Date. In the event Construction Manager and Owner fail to reach an agreement on the Contract Time and the Substantial Completion date, Owner may elect to terminate this Contract. In the event of any such termination, Construction Manager shall be entitled to receive that portion of the Contract Amount attributable to the Pre-Construction Phase Services earned to the date of termination plus that portion of any earned compensation associated with any Construction Phase Services provided, to the extent such services were expressly approved in advance and in writing by Owner; but Construction Manager shall not be entitled to any further or additional compensation from Owner, including but not limited to damages or lost profits on portions of the Work not performed. Substantial Completion of the Work shall be achieved when the Work has been completed to the point where Owner can occupy or utilize the Work for its intended purpose. Design Professional shall certify the date Substantial Completion of the Work is achieved. If Owner has designated portions of the Work to be turned over to Owner prior to Substantial Completion of the entire Work, Design Professional shall certify the date as to when Substantial Completion of such designated portions of the Work have been achieved. The entire Work shall be fully completed and ready for final acceptance by Owner within 30 calendar days after the Substantial Completion date.

- C. Owner and Construction Manager recognize that, since time is of the essence for this Contract, Owner will suffer financial loss if the Work associated with the Construction Phase is not substantially and finally completed within the time specified in the GMP Amendment, as said time may be adjusted as provided for herein. In such event, the total amount of Owner's damages, will be difficult, if not impossible, to definitely ascertain and quantify, because this is a public construction project that will, when completed, benefit the public in Alachua County, Florida. It is hereby agreed that it is appropriate and fair that Owner receive liquidated damages from Construction Manager, if Construction Manager fails to achieve Substantial Completion and Final Completion of the Work within the required Contract Time. Should Construction Manager fail to substantially complete the Work within the required time period, Owner shall be entitled to assess, as liquidated damages, but not as a penalty, (amount to be set forth in the GMP Amendment) for each calendar day thereafter until Substantial Completion is achieved. Should Construction Manager fail to finally complete the Work within the required time period, Owner shall be entitled to assess, as liquidated damages, but not as a penalty, (amount to be set forth in the GMP Amendment) for each calendar day thereafter until Final Completion is achieved. Construction Manager hereby expressly waives and relinquishes any right

which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of Owner's actual damages at the time of contracting if Construction Manager fails to finally complete the Work in a timely manner.

- D. When any period of time is referenced by days herein, it shall be computed to exclude the first day and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the laws of Florida, such day shall be omitted from the computation, and the last day shall become the next succeeding day which is not a Saturday, Sunday or legal holiday. The term "business day" as used herein shall mean all days of the week excluding Saturdays, Sundays and all legal holidays observed by Owner.

Section 8. Exhibits Incorporated

- A. The following documents are expressly agreed to be incorporated by reference and made a part of this Agreement.

Exhibit A:	General Terms and Conditions
Exhibit B:	Supplemental Terms and Conditions
Exhibit C:	Form of Payment Bond
Exhibit D:	Form of Performance Bond
Exhibit E:	Insurance Requirements
Exhibit F:	Form of Release and Affidavit
Exhibit G:	Form of Construction Manager Application for Payment
Exhibit H:	Form of Change Order
Exhibit I:	Master Project Schedule Milestones
Exhibit J:	Construction Manager's Staffing Schedule
Exhibit K:	GMP Amendment to Agreement Between Owner and Construction Manager
Exhibit L:	Truth-In-Negotiation Certificate
Exhibit M:	Subcontractor/Materialman Waiver & Release of Lien

Section 9. Notices

- A. All notices required or made pursuant to this Contract by Construction Manager to Owner shall be in writing and may be given either (i) by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail, Airborne, Emery, Purolator or other expedited mail or package delivery, (iii) by hand delivery to the appropriate address as herein provided, or (iv) by telecopy with confirmation copy to be mailed. Notices required hereunder shall be directed to the following address:

Facilities Management Division
Attn: _____
105 SE First Avenue, Suite 2B
Gainesville, FL 32601

with a copy mailed to:

J. K. Irby
Clerk of the Circuit Court
Attn: Finance and Accounting
P.O. Box 939
Gainesville, FL 32602

And to

Office of Management and Budget
105 SE First Avenue, Suite 6
Gainesville, FL 32601
ATTN: Contracts

- B. All notices required or made pursuant to this Contract by Owner to Construction Manager shall be made in writing and may be given either (i) by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail, Airborne, Emery, Purolator or other expedited mail or package delivery, (iii) by hand delivery to the appropriate address as herein provided, or (iv) by telecopy with confirmation copy to be mailed. Notices required hereunder shall be directed to the following address:

ATTENTION:
Fax No: _____

- C. Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section. Notice sent by mail shall be given as of four (4) business days after the date of the postmark, and notices delivered by overnight courier shall be deemed received on the date when left at the address of the recipient. Notices sent by fax shall be effective the date faxed, if a business day, or the following business day otherwise.

Section 10. Modification

- A. No modification or amendment to the Contract shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

Section 11. Successors, Assigns, and Third Party Beneficiaries

- A. Subject to other provisions hereof, the Contract shall be binding upon and shall inure to the benefit of the successors and assigns of the parties to the Contract. Except as otherwise expressly provided herein, neither this Contract nor any term or provision or obligation arising hereof or hereunder, shall be construed as being for the benefit of any party not a signatory hereto.

Section 12. Governing Law

- A. The Contract shall be interpreted under and its performance governed by the laws of the State of Florida.

Section 13. No Waiver

- A. The failure of Owner to enforce at any time or for any period of time any one or more of the provisions of the Contract shall not be construed to be and shall not be a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision. Nothing contained herein shall constitute a waiver by the County of sovereign immunity, the limits of liability, or other provisions of §768.28, Florida Statutes.

Section 14. Entire Agreement

- A. Each of the parties hereto agrees and represents that the Contract comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Contract.

Section 15. Severability

- A. Should any provision of the Contract be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

Section 16. Construction

- A. Unless the context of this Contract otherwise clearly requires, references to the plural include the singular, references to the singular include the plural. The term “including” is not limiting, and the terms “hereof”, “herein”, “hereunder”, and similar terms in this Contract refer to this Contract as a whole and not to any particular provision of this Contract, unless stated otherwise. Captions and section headings used herein are for convenience only and shall not be used in construing this Agreement. Additionally, the parties hereto acknowledge that the preparation and negotiation of this contract has been a joint effort, that they have carefully reviewed this Contract and have been advised by counsel of their choosing with respect thereto, and that they understand its contents and agree that this Contract shall not be construed more strongly against any party hereto, regardless of who is responsible for its preparation.

Section 17 Counterparts

- A. This agreement may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) indicated below.

ALACHUA COUNTY, FLORIDA

By: _____
_____, Chair
Board of County Commissioners

Date: _____

ATTEST:

APPROVED AS TO FORM

J. K. Irby, Clerk

(SEAL)

Alachua County Attorney's Office

ATTEST

CONSTRUCTION MANAGER

By: _____

By: _____

Print: _____

Print: _____

Title: _____

Title: _____

Date: _____

GENERAL TERMS AND CONDITIONS

1. INTENT OF CONTRACT DOCUMENTS.

1.1 It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for in the Contract Documents. If the Contract Documents include words or terms that have a generally accepted technical or industry meaning, then such words or terms shall be interpreted to have such standard meaning unless otherwise expressly noted in the Contract Documents. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in affect at the time the Work is performed, except as may be otherwise specifically stated herein. Provided, however, in the event the standard specification, manual, code, law or regulation is changed after the GMP Amendment has been executed by the parties, Construction Manager shall be entitled to a Change Order equitably adjusting the Contract Amount and/or Contract Time to the extent such change materially impacts the Contract Time and/or Contract Amount.

1.2 If during the performance of the Work Construction Manager discovers a conflict, error or discrepancy in the Contract Documents, Construction Manager immediately shall report same to Design Professional in writing, and before proceeding with the Work affected thereby, shall obtain a written interpretation or clarification from Design Professional. Prior to commencing each portion of the Work, Construction Manager shall first take all necessary field measurements and verify the applicable field conditions. After taking such measurements and verifying such conditions, Construction Manager shall carefully compare such measurements and conditions with the requirements of the Contract Documents, taking into consideration all other relevant information known to Construction Manager, for the purpose of identifying and bringing to Owner's attention all conflicts or discrepancies with the Contract Documents.

1.3 Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications or other Contract Document provisions, Construction Manager shall be required to comply with the provision which is the more restrictive or stringent requirement upon Construction Manager, as determined by Owner. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a

complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.

2. INVESTIGATION AND UTILITIES.

2.1 Construction Manager shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, legal disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the Project area as a whole; topography and ground surface conditions; nature and quantity of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Construction Manager to acquaint itself with any applicable conditions shall not relieve Construction Manager from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

2.2 Construction Manager shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project site, said roadways, railways, drainage facilities and utilities being referred to in this Section 2 as the "Utilities," as identified by Owner on as-built drawings. Construction Manager shall contact the owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Construction Manager shall schedule and coordinate its Work around any such relocation or temporary service interruption. Construction Manager shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work.

2.3 If during the performance of the Work, Construction Manager or any subcontractor, sub-subcontractor, agent, employee or anyone else for whom Construction Manager is legally liable, causes a disruption to any Utilities service to other facilities or customers within the Project area, Construction Manager shall take all actions necessary and required to immediately restore such Utilities service. If Construction Manager fails to take such immediate actions Owner shall have the right to take whatever actions it deems necessary and required to immediately restore the disrupted services, and all costs incurred by Owner as a result thereof shall be reimbursed to Owner by Construction Manager within five (5) business days of written demand for same from Owner.

3. SCHEDULE.

3.1 The Construction Manager shall prepare and provide the various schedules set forth in Exhibit B to the Agreement. Said schedules shall include but not be limited to an overall progress schedule for the Project which not only includes the Pre-Construction Phase and Construction Phase Services to be provided by Construction Manager hereunder, but also shall include the Design Professional's performance schedules ("Master Project Schedule").

3.2 The Master Project Schedule and all other schedules required hereunder shall be updated by Construction Manager as often as is specified in Exhibit B to the Agreement. The Master Project Schedule and all updates to it shall be subject to Owner's and Design Professional's review and comment. Construction Manager's submittal of a satisfactory Master Project Schedule and updates thereto and Owner's acceptance of same shall be a condition precedent to Owner's obligation to pay Construction Manager.

4. PROGRESS PAYMENTS.

4.1 Construction Manager's monthly Applications for Payment shall be in such form and contain such detail and backup as Owner reasonably may require. Prior to submitting its first monthly Application for Payment, Construction Manager shall submit to Owner and Design Professional, for their review and approval, a Schedule of Values based upon the lump sum compensation to be paid Construction Manager for Pre-Construction Phase Services hereunder. After its approval by Owner, that Schedule of Values shall be used as the basis for Construction Manager's monthly Applications for Payment with respect to Pre-Construction Phase Services. The first Application for Payment shall be submitted no earlier than thirty (30) days after the Pre-Construction Phase Commencement Date. The approved Schedule of Values shall be updated to reflect current Change Orders and Construction Change Directives and submitted each month to Design Professional along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit G.

4.2 At the time it submits its GMP proposal to Owner, Construction Manager also shall submit to Owner and Design Professional, for their review, a revised Schedule of Values based upon the GMP proposal; all in C.S.I. format, listing the major elements of the Work and the dollar value for each element. That revised Schedule of Values, as further revised to reflect the final negotiated GMP amount and as approved by Owner, will be attached to the GMP Amendment and shall be used as the basis for Construction Manager's monthly Applications for Payment thereafter. This revised Schedule of Values shall be updated for the current month Change Orders and Construction Change Directives and submitted each month to Design Professional along with a completed and notarized copy of the Application for Payment form attached to the Agreement as Exhibit G.

4.3 If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that Owner has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner's interest therein, all of which shall be subject to Owner's satisfaction. Owner has the discretion whether or not to pay for such unincorporated materials.

4.4 Construction Manager shall submit four (4) notarized original copies of its monthly Application for Payment to Design Professional on or before the 25th day of each month for Work performed during the previous month. Invoices received after the 25th day of

each month shall be considered for payment as part of the next month's application. Within seven (7) calendar days after receipt of each Application for Payment, Design Professional shall submit to Owner a Certificate for Payment in the amount recommended by Design Professional as being due and owing Construction Manager. Owner shall pay Construction Manager that portion of Design Professional's Certificate for Payment which Owner approves as being due and owing Construction Manager in accordance with the Florida Prompt Payment Act.

4.5 Owner shall retain ten percent (10%) of the gross amount of each monthly payment request or ten percent (10%) of the portion thereof certified by Design Professional and approved by Owner for payment, whichever is less, until the Project has reached 50% completion. Upon 50% completion, the Construction Manager may request that the County pay up to one half of the retainage then held by the County for properly conducted work. If County does not dispute the proper delivery of services, then the County shall make such payment. Once 50% completion is reached, the County shall only retain up to 5% of each progress payment. Such sum shall be accumulated and not released to Construction Manager until final payment is due. Owner reserves the right to reduce such retainage after Substantial Completion.

4.6 Within 30 days of substantial completion of the Project as defined herein, or if not defined upon reaching beneficial occupancy or use, the Construction Manager, Design Professional and County will develop a list (The List) of items required to render complete, satisfactory and acceptable the services required herein. County will provide a first draft of the List within twenty (20) days of notice of substantial completion. Construction Manager will notify the County of acceptance or of any changes requested within ten (10) days of receipt. The List developed does not relieve the Construction Manager of the responsibility for corrective work or for pending items not yet completed for the Project and any items that are identified after development of The List that are required to correct or complete the Project remain the responsibility of the Construction Manager. If the County fails to develop the list in the time specified, the Construction Manager may request payment for all retainage held by the County. If the Construction Manager fails to cooperate with the County in developing The List, or obligations under The List, the County is not obligated to pay the retainage. The County shall not be obligated to make payment for amounts that are the subject of a good faith dispute or a claim brought pursuant to §255.05, Florida Statutes. Once all items on The List have been completed, the Construction Manager may request the remaining retainage from the County. In cases of a dispute as to completion of an item on the List, the County may withhold an amount not to exceed 150% of the total cost to complete disputed items.

4.7 Monthly payments to Construction Manager shall in no way imply approval or acceptance of Construction Manager's work.

4.8 Each Application for Payment shall be accompanied by a Release and Affidavit, in the form attached to the Agreement as Exhibit F, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full through the previous month's Application for Payment. Owner shall not be required to make payment until and unless these affidavits are furnished by Construction Manager. Further, if Construction Manager is withholding any portion of a payment to any

subcontractor for any labor, services, or materials for which Owner has paid Construction Manager, Construction Manager agrees to refund such money to Owner.

5. PAYMENTS WITHHELD.

5.1 Design Professional shall review each Application for Payment submitted by Construction Manager and shall make recommendations to Owner as to the proper amounts, if any, which may be owed Construction Manager under the Application for Payment. Design Professional's payment recommendation shall be evidenced by a Certificate for Payment issued by Design Professional to Owner. All Certificates for Payment are subject to Owner's review and approval. Both Design Professional and Owner shall have the right to refuse to certify or approve for payment any amounts, or portions thereof, requested by Construction Manager in an Application for Payment, or rescind any amount previously certified and approved in a Certificate for Payment, and Owner may withhold any payments otherwise due Construction Manager under this Contract or any other agreement between Owner and Construction Manager, to the extent it is reasonably necessary, to protect Owner from any expense, cost or loss attributable to: (a) defective or deficient Work not properly remedied in accordance with the terms of the Contract Documents; (b) the filing or reasonable evidence indicating the probable filing of third party claims against Owner attributable to the fault or neglect of Construction Manager; (c) Construction Manager's failure to make timely and proper payments to all subcontractors and suppliers; (d) reasonable evidence that the remaining Work cannot be completed for the unpaid Contract Amount balance; (e) reasonable evidence indicating that the remaining Work cannot be completed within the remaining Contract Time; (f) Construction Manager's failure to satisfactorily prosecute the Work in accordance with the requirements of the Contract Documents; or (g) any other material breach of the requirements of the Contract Documents by Construction Manager. Owner shall have the right, but not the obligation, to take any corrective action Owner deems appropriate to cure any of the above noted items, at Construction Manager's expense, if such items are not cured by Construction Manager to Owner's reasonable satisfaction within three (3) days after Construction Manager's receipt of written notice from Owner.

6. FINAL PAYMENT.

6.1 Owner shall make final payment to Construction Manager within sixty (60) calendar days after the Work is finally accepted by Owner in accordance with Paragraph 23.2 herein, provided that Construction Manager first, and as an explicit condition precedent to the accrual of Construction Manager's right to final payment, shall have furnished Owner with a properly executed and notarized final release (conditioned only upon receipt of final payment) in the form of the Release and Affidavit attached to the Agreement as Exhibit F, as well as, a duly executed copy of the surety's consent to final payment and such other documentation that may be required by the Contract Documents or Owner.

6.2 Construction Manager's acceptance of final payment shall constitute a full waiver of any and all claims by Construction Manager against Owner arising out of this Contract or otherwise relating to the Project, except those identified in writing by Construction Manager

as unsettled in the final Application for Payment. Neither the acceptance of the Work nor payment by Owner shall be deemed to be a waiver of Owner's right to enforce any obligations of Construction Manager hereunder or to the recovery of damages for defective Work not discovered by Owner or Design Professional at the time of final inspection. Owner retains the right to recover damages for the recovery of defective Work not discovered by Owner or Design Professional at the time of final inspection.

7. SUBMITTALS AND SUBSTITUTIONS.

7.1 Construction Manager shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Construction Manager shall submit all such materials at its own expense and in such form and manner as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof. The Construction Manager shall also carefully review and certify for accuracy and completeness all shop drawings and other submittals and then forward the same to the Design Professional for review and action. The Design Professional will transmit them back to the Construction Manager who will then issue the submittals to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote the expeditious handling of shop drawings and all other submittals. The Construction Manager shall request the Design Professional to make interpretations of the drawings or specifications requested of it by the subcontractors. The Construction Manager shall advise the Design Professional in writing which submittals or requests for clarification have the greatest urgency; the purpose being to enable the Design Professional to prioritize requests coming from the Construction Manager. The Construction Manager shall advise the Owner and Design Professional in writing when timely response is not occurring on any of the above.

7.2 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by Owner and Design Professional if sufficient information is submitted by Construction Manager to allow Owner and Design Professional to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by Owner from anyone other than Construction Manager. All such requests, to the extent possible, should be submitted by Construction Manager to Design Professional prior to the setting of the GMP.

7.3 If Construction Manager wishes to furnish or use a substitute item of material or equipment, Construction Manager shall make application to Design Professional for acceptance thereof, certifying that the proposed substitute shall perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. If an item is to be substituted for an item on the list of green building materials, or if the proposed substitution will affect the Leadership in Energy and Environmental Design (LEED) score, then the numerical effect shall

be reported in the substitution request. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Construction Manager's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by Design Professional in evaluating the proposed substitute. Design Professional may require Construction Manager to furnish at Construction Manager's expense additional data about the proposed substitute.

7.4 If a specific means, method, technique, sequence or procedure of construction is indicated in or required by Contract Documents, Construction Manager may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to Design Professional, if Construction Manager submits sufficient information to allow Design Professional to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by Design Professional shall be the same as those provided herein for substitute materials and equipment.

7.5 Design Professional shall be allowed a reasonable time within which to evaluate each proposed substitute. Design Professional and Owner shall be the sole judges of the acceptability of any substitute. No substitute shall be ordered, installed or utilized without Owner's and Design Professional's prior written acceptance which shall be evidenced by either a Change Order or an approved submittal. Owner may require Construction Manager to furnish at Construction Manager's expense a special performance guarantee or other surety with respect to any substitute. If Owner rejects the proposed substitute, at Owner's discretion, Owner may require Construction Manager to reimburse Owner for the charges of Design Professional and Design Professional's consultants for evaluating the proposed substitute.

7.6 Construction Manager shall promptly respond to all requests from Design Professional, Owner, or other entity hired by Owner.

8. PRE-CONSTRUCTION PHASE SERVICES.

Construction Manager shall provide the following review and commentary services, in addition to any other Pre-Construction Phase Services required by the terms of this Contract:

8.1 **Review, Recommendations and Warranty:** The Construction Manager shall familiarize itself thoroughly with the evolving architectural, civil, mechanical, plumbing,

electrical and structural plans and specifications and shall follow the development of design from Schematic Pre-Construction Phase through Construction Documents Phase (as those phases are defined in the Design Agreement). The Construction Manager shall make recommendations with respect to the selection of systems and materials, and cost-reducing alternatives including assistance to the Design Professional and Owner in evaluating alternative comparisons versus long term cost effects, without assuming architectural or engineering responsibility. The evaluation shall address the benefits of the speed of erection and early completion of the Work. The Construction Manager shall furnish pertinent information as to the availability of materials and labor that will be required. The Construction Manager shall submit to the Owner and Design Professional such comments as may be appropriate concerning construction feasibility and practicality. The Construction Manager shall call to the Owner's and the Design Professional's attention any defects in the design, drawings and specifications or other documents of which it is aware. The Construction Manager shall prepare estimates of the construction cost utilizing the unit quantity survey method in the CSI format. These estimates shall be performed at the completion of the Program Verification Phase and shall be called the Program Estimate, followed by a Schematic Design Estimate, which shall be followed by the Design Development Estimate, which shall be followed by a 50% Construction Document Estimate, which shall be followed by the setting of the GMP.

8.2 **Review Reports:** Within ten (10) days after receiving the documents produced by the Design Professional, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Paragraph 8.1 above and on factors set out in Paragraphs 8.3 and 8.4 below. Within the same ten (10) day period, the Construction Manager shall submit to the Owner, with copies to the Design Professional, a written report covering suggestions or recommendations previously submitted, additional suggestions or recommendations as the Construction Manager may deem appropriate, and all actions taken by the Design Professional with respect to same, any comments the Construction Manager may deem to be appropriate with respect to separating the Work into separate subcontracts, alternative materials, and any other appropriate or required comments.

AT THE TIME THE GMP IS MUTUALLY ESTABLISHED, EXCEPT ONLY AS TO SPECIFIC MATTERS AS MAY BE IDENTIFIED IN AMENDMENT NO. 1, THE CONSTRUCTION MANAGER SHALL BE DEEMED TO HAVE WARRANTED TO OWNER, WITHOUT ASSUMING ANY ARCHITECTURAL OR ENGINEERING RESPONSIBILITY, THAT THE CONSTRUCTION DOCUMENTS ARE CONSISTENT WITH EACH OTHER, PRACTICAL, FEASIBLE AND CONSTRUCTABLE. FURTHER, THE CONSTRUCTION MANAGER SHALL BE DEEMED TO HAVE WARRANTED TO OWNER THAT THE WORK DESCRIBED IN THE CONSTRUCTION DOCUMENTS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTABLE WITHIN THE CONTRACT TIME.

8.3 **Long Lead Procurement:** The Construction Manager shall review the Project design for the purpose of identifying long lead procurement items (machinery, equipment, materials and supplies) and consult with Design Professional concerning same.

When each item is identified, the Construction Manager shall notify the subcontractors, Owner and the Design Professional of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected subcontracts. The Construction Manager shall keep itself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items, and advise Owner and Design Professional of any problems or possible delays in delivery.

8.4 **Interfacing**

8.4.1 The Construction Manager shall take such measures as are appropriate to provide that all construction requirements will be covered in the separate procurement of long lead items, the separate construction subcontractors and the general conditions items without duplication or overlap, and sequenced to maintain completion of all Work on schedule. Particular attention shall be given to provide that each bid package clearly identifies the Work included in that particular separate subcontract, its schedule for start and completion and its relationship to the other separate subcontractors.

8.4.2 Without assuming any design responsibilities of the Design Professional, the Construction Manager shall include in the reports required under Paragraph 8.2 above, comments on overlap with any other separate subcontracts, omissions, lack of correlation between drawings, and any other deficiencies noted, in order that the Design Professional may arrange for necessary corrections.

8.5 **Energy Efficient Construction.** The construction of buildings that are energy efficient to operate is a goal of the Owner. The majority of work listed below will be completed in a two-day workshop. Accordingly, the Construction Manager shall perform the following pre-construction services:

8.5.1 Lead the County through exercises reviewing energy modeling of green buildings.

8.5.2 Present energy saving options and green product options.

8.5.3 Assist Design Professional in identifying cost of LEED certification and complete a preliminary LEED scorecard and identify the corresponding certification level.

8.5.4 Assist the County in selecting green materials, certified woods, and recyclables, and include assistance in scheduling long lead items, reuse of products, and identifying locally produced products.

8.5.5 Assist with direct purchases of green products.

8.5.6 Assist the Design Professional with the production of a list of green materials to be used on the project.

8.5.7 Educate interested subcontractors and suppliers about green building materials and systems and suggest green material substitutions to them.

8.5.8 Furnish documents to County in a timely manner, when requested for grant applications.

8.5.9 The CM shall register the building with the U.S. Green Building Council (USGBC) within the first 30 days of construction. The CM shall prepare and submit the LEED certification application no later than final completion and shall use its best efforts to obtain the certification for the building. The CM shall ensure that the construction documents are satisfactory to meet this purpose.

9. CONSTRUCTION PHASE SERVICES.

Construction Manager shall provide the following services in addition to any other Construction Phase Services required by the terms of this Contract:

9.1 The Construction Manager shall arrange for all job-site facilities as required by the Owner and necessary to enable the Construction Manager and Design Professional to perform their respective duties and to accommodate any representatives of the Owner which the Owner may choose to have present on the job, the description of such facilities to be finalized prior to the establishment of the GMP.

9.1.1 Prior to the issuance of the Notice to Proceed the Construction Manager shall provide a site plan for approval by the County. The plan shall show fences, gates, parking areas, loading and unloading areas, staging and storage areas, field offices, and other necessary site features.

9.1.2 Tangible personal property, otherwise referred to as job-site facilities, include, but are not limited to such things as trailers, toilets, typewriters, computers and any other equipment necessary to carry on the Work. The method of acquiring such job-site facilities, which are planned to become the property of the Owner at the conclusion of the Work, shall be evaluated based on their cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager, obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing and then analyzing which is least expensive over the usable life of the item. The Construction Manager shall present its evaluation with recommendation to the Owner for approval.

9.1.3 When the Construction Manager wishes to supply job-site facilities from its own equipment pool, it shall first evaluate buy versus lease as discussed in subparagraph 9.1.1 above. If leasing is found to be the least expensive approach, then it may lease such job-site facilities from its own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained.

9.1.4 For all such job-site facilities purchased, which may become the property of the Owner at the conclusion of the Work, the Construction Manager shall maintain ownership responsibilities of such facilities until final acceptance of the Work. Reimbursement for cost of such equipment will be made at the conclusion of the Work at the documented purchase price. At that time, the Construction Manager shall provide the Owner with a complete inventory for each unit of equipment. The inventory shall describe the equipment and identify the purchase price, serial number, model number and condition. Where said equipment has a title, said title shall be properly transferred to the Owner or to its designee.

9.1.5 The Construction Manager is responsible for proper care and maintenance of all equipment while in its control. At the time of transfer to the Owner, the Owner may refuse acceptance of the equipment if the Owner determines, in its sole discretion, that the equipment has not been properly cared for by the Construction Manager or that such acquisition would not otherwise be in the best interest of the Owner. In such event, the Construction Manager will be reimbursed for such item in accordance with Section 5 of the Agreement.

9.2 The Construction Manager's administration of the Work shall include the following:

9.2.1 Maintain a log of daily activities, including manpower records, weather, delays, major decisions, significant issues, etc.

9.2.2 Maintain a roster of companies on the Project with names and telephone numbers of key personnel.

9.2.3 Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.

9.2.4 Provide labor relations management for a harmonious, productive Project.

9.3 The Construction Manager also shall provide job site administration functions during construction to assure proper documentation, including but not limited to the following:

9.3.1 Job Meetings: Conduct a preconstruction conference with each subcontractor after award of the subcontract and prior to the start of its portion of the Work. Hold weekly progress and coordination meetings, or more frequently if required by Work progress, to provide for the timely completion of the Work. In addition, Construction Manager shall arrange and conduct regular monthly Project status meetings with the Design Professional and Owner. The Construction Manager shall produce minutes of all meetings to include, at a minimum: attendees and contact info, old and new business, status of outstanding requests for information, clarification or correction, notices, change orders, schedule update, contingency

update, material delivery schedule, safety. Owner, at its option, may produce the official minutes of any meeting attended by Owner.

Construction Manager shall use the job site meetings as a tool for the preplanning of Work and enforcing schedules, and for establishing procedures, responsibilities, and identification of authority for all parties to clearly understand. During these meetings, Construction Manager shall identify the party or parties responsible for following up on any problems, delay items or questions, and Construction Manager shall note the action to be taken by such party or parties. Construction Manager shall revisit each pending item at each subsequent meeting until resolution is achieved. Construction Manager shall attempt to obtain from all present any problems or delaying event known to them for appropriate attention and resolution.

9.3.2 Shop Drawing Submittals/Approvals: Provide staff to review and approve shop drawings and other submittals and to implement procedures for transmittal to the Design Professional of such submittals for action, and closely monitor their review process.

9.3.3 Material and Equipment Expediting: Provide staff to closely monitor material and equipment deliveries, check and follow-up on supplier commitments for all subcontractors and maintain a material and equipment expediting log.

9.3.4 Payments to Subcontractors: Develop and implement a procedure for the review, processing and payment of applications by subcontractors for progress and final payments.

9.3.5 Document Interpretation: Refer all questions for interpretation of the Contract Documents to the Design Professional in writing.

9.3.6 Reports and Project Site Documents: Record the progress of the Work. Submit written progress reports to the Owner and the Design Professional, including information on subcontractors' Work, and the percentage of completion. Keep a daily log available to the Owner, the Design Professional, and any permitting authority inspectors.

9.3.7 Subcontractors Progress: Prepare periodic punch lists for subcontractors' work including unsatisfactory or incomplete items and schedules for their completion.

9.3.8 Substantial Completion: Pursuant to the provisions of Paragraph 23.1 of these General Terms and Conditions, ascertain when the Work or designated portions thereof are ready for the Design Professional's Substantial Completion inspections. From the punch lists of incomplete or unsatisfactory items prepared by Construction Manager and reviewed and supplemented by Design Professional, prepare a schedule for their completion indicating completion dates for the Owner's review.

9.3.9 Final Completion: Monitor the subcontractors' performance on the completion of the Work and provide notice to the Owner and Design Professional when the Work is ready for final inspection. Secure, review and certify compliance with the Contract Documents, then transmit to the Owner, through the Design Professional, all required guarantees, warranties, affidavits, releases, bonds, waivers, manuals, technical standards, permits, testing results, record drawings, and maintenance books. As a minimum, unless waived by Owner, the Construction Manager shall provide documentation on the following items along with notice of that the work is ready for final completion (no documentation is required if the materials and equipment is not included in the design):

9.3.9.1	Subcontracts and Purchase Orders
9.3.9.2	Subcontractor Licenses
9.3.9.3	Shop Drawing Submittal/Approval Logs
9.3.9.4	Equipment Purchase/Delivery Logs
9.3.9.5	Contract Drawings and Specifications with Addenda
9.3.9.6	All warranties and guarantees, as a minimum:
9.3.9.7	Cost Accounting Records
9.3.9.8	Labor Costs
9.3.9.9	Certificate of Substantial Completion
9.3.9.10	Certificate of Sign-Off by Architect, Mechanical & Electrical Engineers; Includes final inspection report from the MEP and Structural Engineer.
9.3.9.11	Final Property Survey
9.3.9.12	Maintenance Bond (if applicable)
9.3.9.13	Final Lien Waivers from Subcontractors
9.3.9.14	Material Costs
9.3.9.15	Equipment Costs
9.3.9.16	Cost Proposal Request
9.3.9.17	Payment Request Records
9.3.9.18	Meeting Minutes
9.3.9.19	Cost-Estimates
9.3.9.20	Bulletin Quotations
9.3.9.21	Lab Test Reports
9.3.9.22	Insurance Certificates and Bonds
9.3.9.23	Contract Changes
9.3.9.24	Permits & Inspections, Certificate of Occupancy(CO) and Occupancy (UO)
9.3.9.25	Material Purchase Delivery Logs
9.3.9.26	Technical Standards, Manuals, Operating Manuals
9.3.9.27	Design Handbooks
9.3.9.28	"As-Built" Marked Prints
9.3.9.29	Operating & Maintenance Instruction
9.3.9.30	Start Up Reports
9.3.9.31	Boilers

Use of

	9.3.9.32	Generators (Full Load 4 Hour Tests)
	9.3.9.33	Chillers
	9.3.9.34	Air Handlers (AHU)
	9.3.9.35	Make-Up Air Units (MUAU's)
	9.3.9.36	Water Treatment
	9.3.9.37	Balance Reports for Air & Water
	9.3.9.38	Firemen Test Results
	9.3.9.39	Daily Progress Reports
	9.3.9.40	Monthly Progress Reports
	9.3.9.41	Correspondence Files
	9.3.9.42	Transmittal Records
	9.3.9.43	Inspection Reports
	9.3.9.44	Bid/Award Information
	9.3.9.45	Bid Analysis and Negotiations
	9.3.9.46	Punch Lists
	9.3.9.47	PMIS Schedule and Updates
	9.3.9.48	Suspense (Tickler) Files of Outstanding Requirements
	9.3.9.49	Policy and Procedure Manual
	9.3.9.50	Roofing and flashing warranties
	9.3.9.51	Joint Sealant warranties
	9.3.9.52	Doors and hardware warranties
epoxy	9.3.9.53	Flooring – Carpet, vinyl composition tile, sheet, ceramic,
	9.3.9.54	Windows – aluminum, wood, vinyl, steel
	9.3.9.55	Curtain wall and storefront work including anti chalking of aluminum, color retention of members, air/water
infiltration	9.3.9.56	Waste compactor and trash chute
	9.3.9.57	Window covering
	9.3.9.58	Toilet accessories
	9.3.9.59	Transmittal of trades, generally provided in three ring binders
	9.3.9.60	Plumbing and mechanical
	9.3.9.61	Fire Protection
	9.3.9.62	Hardware
	9.3.9.63	Sealants
	9.3.9.64	Masonry material – brick, concrete masonry unit (CMU)
	9.3.9.65	Fire Protection – sprinklers heads, fire extinguishers
	9.3.9.66	Electrical parts- wiring devices, fixtures lenses, lamps
	9.3.9.67	Electrical
	9.3.9.68	Elevator
	9.3.9.69	Data/Communication
	9.3.9.70	Data and Telephone Communication
	9.3.9.71	Data and Telephone cabling test results

9.3.10 Start-Up: With the Owner's personnel, direct the check-out of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the subcontractors.

9.3.11 Record Drawings: Pursuant to the terms of Paragraph 10.2 hereafter, the Construction Manager shall monitor the progress of its own forces and its subcontractors on marked up field prints which shall be developed by Construction Manager into the final record drawings.

9.4 The Construction Manager shall maintain at the Project site, originals or copies of, on a current basis, all Project files and records, including, but not limited to, the following administrative records:

- 9.4.1 Subcontracts and Purchase Orders
- 9.4.2 Subcontractor Licenses
- 9.4.3 Shop Drawing Submittal/Approval Logs
- 9.4.4 Equipment Purchase/Delivery Logs
- 9.4.5 Contract Drawings and Specifications with Addenda
- 9.4.6 Warranties and Guarantees
- 9.4.7 Cost Accounting Records
- 9.4.8 Labor Costs
- 9.4.9 Material Costs
- 9.4.10 Equipment Costs
- 9.4.11 Cost Proposal Request
- 9.4.12 Payment Request Records
- 9.4.13 Meeting Minutes
- 9.4.14 Cost-Estimates
- 9.4.15 Bulletin Quotations
- 9.4.16 Lab Test Reports
- 9.4.17 Insurance Certificates and Bonds
- 9.4.18 Contract Changes
- 9.4.19 Permits
- 9.4.20 Material Purchase Delivery Logs
- 9.4.21 Technical Standards
- 9.4.22 Design Handbooks
- 9.4.23 "As-Built" Marked Prints
- 9.4.24 Operating & Maintenance Instruction
- 9.4.25 Daily Progress Reports
- 9.4.26 Monthly Progress Reports
- 9.4.27 Correspondence Files
- 9.4.28 Transmittal Records
- 9.4.29 Inspection and Safety Reports
- 9.4.30 Bid/Award Information
- 9.4.31 Bid Analysis and Negotiations
- 9.4.32 Punch Lists

- 9.4.33 PMIS Schedule and Updates
- 9.4.34 Suspense (Tickler) Files of Outstanding Requirements
- 9.4.35 Policy and Procedure Manual

The Project files and records shall be available at all times to the Owner and Design Professional or their designees for reference, review or copying.

9.5 The Construction Manager shall provide the following services with respect to the Work, to facilitate the smooth, successful and timely occupancy of the Project by Owner:

9.5.1 The Construction Manager shall provide consultation and Project management to facilitate Owner's occupancy of the Project and provide transitional services to place the Work "on line" in such conditions as will satisfy Owner's operations requirements. The services include the Construction Manager's coordination of the delivery of Owner supplied furniture, fixtures and equipment for the Project.

9.5.2 The Construction Manager shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey these to the Owner in such a manner as to promote their usability. The Construction Manager shall provide Owner's operations and maintenance personnel with operations and maintenance training with respect to the equipment and systems being provided as part of the Work. This training may be video taped by Owner for subsequent presentation to Owner's operations and maintenance personnel.

9.5.3 The Construction Manager shall secure required guarantees and warranties, and shall assemble and deliver same to the Owner in the manner required by Owner.

9.5.4 The Construction Manager shall work with the Consultant and the County to create a Computerized Maintenance Management System (CMMS) for the building. All maintenance requirements for the building are to be included. The CMMS building shall be completed within 60 days of substantial completion.

9.6 The Construction Manager shall work from an approved list of approved green building materials.

9.7 Assist with the design of Project identification signs to be approved by the Owner, construct the signs, and then install and maintain the signs.

10. DAILY REPORTS, RECORD CONTRACT DOCUMENTS AND MEETINGS.

10.1 Construction Manager shall prepare, maintain and submit to Design Professional and Owner, for their review and approval, the various logs, reports, and schedules

set forth in Exhibit B to the Agreement. The Construction Manager's complete performance of its obligation to prepare, maintain and submit those logs, reports, and schedules is a condition precedent to Owner's obligation hereunder to make any payments to Construction Manager. These logs, reports and schedules shall not constitute nor take the place of any notice required to be given by Construction Manager to Owner or Design Professional pursuant to the Contract Documents.

10.2 Construction Manager shall maintain in a safe place at the Project site one record copy and one permit set of the Contract Documents, including, but not limited to, all drawings, specifications, addenda, amendments, Change Orders, Construction Change Directive and Field Orders, as well as all written interpretations and clarifications issued by Design Professional, in good order and annotated to show all changes made during construction. The record Contract Documents shall be continuously updated by Construction Manager throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Construction Change Directive and Field Orders, and all concealed and buried installations of piping, conduit and utility services. Construction Manager shall certify the accuracy of the updated record Contract Documents. As a condition precedent to Owner's obligation to pay Construction Manager, Construction Manager shall provide evidence, satisfactory to Owner and Design Professional, that Construction Manager is fulfilling its obligation to continuously update the record Contract Documents. All buried and concealed items, both inside and outside the Project site, shall be accurately located on the record Contract Documents as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The record Contract Documents shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in red. The record Contract Documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to Owner and Design Professional for reference. Upon completion of the Work and as a condition precedent to Construction Manager's entitlement to final payment, the record Contract Documents, samples and shop drawings shall be delivered to Design Professional by Construction Manager for Owner.

10.3 Construction Manager shall advise Owner, its representatives and Design Professional of their requested or required participation in any meeting or inspection giving each at least one week written notice unless such notice is made impossible by conditions beyond Construction Manager's fault and control, in which case at least 48 hours prior written notice must be given.

11. CONTRACT TIME AND TIME EXTENSIONS.

11.1 Construction Manager shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its subcontractors and materialmen, as well as coordinating its Work with all work of others at the Project site, so that its Work or the work of others shall not be delayed or impaired by any act or omission by Construction Manager or anyone for whom Construction Manager is liable. Unless expressly noted otherwise in the Contract Documents, Construction Manager shall be solely responsible for all construction

means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents, and the coordination of Owner's suppliers and contractors as set forth in Section 14 herein.

11.2 Should Construction Manager be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Construction Manager, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes, lockouts, unusually severe weather conditions by comparison with the ten-year Alachua County, Florida, average not reasonably anticipatable, Construction Manager shall notify Owner and Design Professional in writing within seven (7) calendar days after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Construction Manager may have had to request a time extension.

11.3 If Construction Manager encounters on the Project site any materials reasonably believed by Construction Manager to be petroleum or petroleum related products or other hazardous or toxic substances which have not been rendered harmless, Construction Manager immediately shall (i) stop Work in the area affected and (ii) report the condition to Owner in writing. If the Work is so stopped and hazardous material is found, the Work in the affected area shall not thereafter be resumed except by Change Order. Any such Change Order shall include, but not be limited to, an adjustment to the Contract Time as appropriate. If no hazardous material is found after the Work is stopped, no Change Order is required to resume the Work in the affected area. Further, if the hazardous material was generated or caused by the Construction Manager or any of its employees, agents, subcontractors, or material suppliers, no Change Order will be required for an adjustment in the Contract Time and Construction Manager shall indemnify the Owner and hold Owner harmless for any costs incurred by the Owner with respect to such hazardous material.

11.4 No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which Owner and Design Professional may be responsible, in whole or in part, shall relieve Construction Manager of its duty to perform or give rise to any right to damages or additional compensation from Owner. Construction Manager expressly acknowledges and agrees that it shall receive no damages for delay. Construction Manager's sole remedy, if any, against Owner will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion. Notwithstanding the foregoing, if the Work is delayed due to the fault or neglect of Owner or anyone for whom the Owner is liable, and such delays have a cumulative total of more than twenty-one (21) calendar days, Construction Manager may make a claim for its actual and direct delay damages accruing after said twenty-one (21) calendar days. Provided, however, Construction Manager expressly acknowledges and agrees that its actual and direct delay damages shall not exceed \$ [REDACTED] (as set forth in Exhibit K) per calendar day. In no event shall Owner be liable to Construction Manager whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration,

soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

12. CHANGES IN THE WORK.

12.1 Owner shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, but in no event more than fourteen (14) days after its receipt of such notification (unless Owner has agreed in writing to a longer period of time), Construction Manager shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or for minor changes ordered by the Design Professional, no addition or changes to the Work shall be made except upon written order of Owner, and Owner shall not be liable to Construction Manager for any increased compensation or adjustment to the Contract Time without such written order. No officer, employee or agent of Owner is authorized to direct any extra or changed work orally.

12.2 A Change Order, in the form attached as Exhibit H to the Agreement, shall be prepared by the Construction Manager, reviewed by Design Professional and Owner, and executed promptly by the parties after an agreement is reached between Construction Manager and Owner concerning the requested changes. Construction Manager shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as Owner and Construction Manager shall mutually agree.

12.3 If Owner and Construction Manager are unable to agree on a Change Order for the requested change, Construction Manager shall, nevertheless, promptly perform the change as directed by Owner in a written Construction Change Directive. In that event, the Contract Amount and Contract Time shall be adjusted as directed by Owner. If Construction Manager disagrees with Owner's adjustment determination, Construction Manager must make a claim pursuant to Section 13 of these General Conditions or else be deemed to have waived any claim it might otherwise have had on that matter.

12.4 In the event a requested change is approved by Owner which results in either an increase or decrease to the Contract Amount, a Change Order shall be issued which increases or decreases the GMP by the amount of Construction Manager's actual and reasonable direct Cost of the Work (including bond premiums). In the event such change Work is performed by a subcontractor, a maximum _____ percent (____%) markup for all overhead and profit for all subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted. Construction Manager shall not be entitled to any mark-up for Change Order work, nor shall the Construction Management Fee be increased as a result of any Change Order work. Provided, however, if at the time final payment is made to Construction Manager the total Cost of the Work has been increased by approved Change Orders in an amount causing the original GMP as set forth in the GMP Amendment to be exceeded by \$_0____, Construction Manager shall be entitled to an increase to the Construction Management Fee in the amount of _____ percent (____%) of the amount that exceeds the sum of the

original GMP plus \$ 0_. If at the time final payment is made to Construction Manager the total Cost of the Work has been decreased by approved Change Orders in an amount causing the original GMP as set forth in the GMP Amendment to be reduced by more than \$ 0_, not taking into consideration for the purpose of this calculation any Deductive Change Orders associated with Owner's direct purchase program, (said reduction amount being referred to herein as the "Reduction"), then Construction Manager's Fee shall be reduced in the amount of __6__% of the Reduction amount.

12.5 Owner shall have the right to conduct an audit of Construction Manager's books and records, as well as those of its subcontractors and suppliers, to verify the accuracy of Construction Manager's claim with respect to Construction Manager's costs associated with any Change Order or Construction Change Directive.

12.6 Design Professional may direct Construction Manager to make nonmaterial changes to the Work, so long as such changes do not require or result in any adjustment to the Contract Amount, Contract Time or Project quality, and are generally within the scope of the Work. All such changes must be evidenced by a written order from Design Professional to Construction Manager, with a copy to Owner. Construction Manager shall comply with all such orders.

13. CLAIMS AND DISPUTES.

13.1 The term "Claim" as used herein shall mean any and all demands made by one party hereunder against the other party, whether such demand be for money, time or the assertion of any right or obligation that arises out of the Contract Documents.

13.2 Initial notice of Claims by Construction Manager shall be made in writing to Owner and Design Professional within seven (7) calendar days after the first day of the event giving rise to such Claim or else Construction Manager shall be deemed to have waived the Claim. Written supporting data shall be submitted to Owner and Design Professional within thirty (30) calendar days after the occurrence of the event, unless Owner grants additional time in writing, or else Construction Manager shall be deemed to have waived the Claim. All Claims shall be priced in accordance with the provisions of Paragraph 12.4 hereof.

13.3 Construction Manager shall proceed diligently with its performance as directed by Owner, regardless of any pending Claim, unless otherwise agreed to by Owner in writing. Owner shall continue to make payments in accordance with the Contract Documents during the pendency of any Claim.

13.4 Prior to the initiation of any action or proceeding permitted by this Contract to resolve disputes between the parties, the parties shall make a good faith effort to resolve any such disputes by negotiation between representatives with decision-making power. Failing resolution, and prior to the commencement of depositions in any litigation between the parties with respect to the Project, the parties shall attempt to resolve the dispute through mediation before an agreed-upon Circuit Court Mediator certified by the State of Florida.

Should either party fail to submit to mediation as required hereunder, the other party may request a court of law to order mediation under Florida Statutes Section 44.102.

13.5 Any litigation between the Owner and Construction Manager (which term for the purposes of this subparagraph shall include the Construction Manager's surety), whether arising out of any Claim or arising out of the Contract or any breach thereof, shall be brought, maintained and pursued only in the appropriate State courts of the State of Florida; and the Owner and the Construction Manager each hereby waive and renounce any and all rights and options which they, or either of them, have or might have to bring or maintain any such litigation or action in the Federal Court system of the United States or in any United States Federal District Court. Venue of any such litigation between the Owner and Construction Manager shall lie and be only in the appropriate State courts of the State of Florida's Eighth Judicial Circuit in and for Alachua County, Florida. Construction Manager consents and submits to the jurisdiction of any such court and agrees to accept service of process from the State of Florida in any matter to be submitted to any such court.

14. OTHER WORK.

14.1 Owner may perform other work related to the Project at the site by Owner's own forces, have other work performed by utility owners or let other direct contracts. If the fact that such other work is to be performed is not noted in the Contract Documents, written notice thereof will be given to Construction Manager prior to starting any such other work. If Construction Manager believes that such performance will involve additional expense to Construction Manager or require additional time, Construction Manager shall send written notice of that fact to Owner and Design Professional within seven (7) calendar days of being notified of the other work. If Construction Manager fails to send the above required seven (7) calendar days' notice, Construction Manager will be deemed to have waived any rights it otherwise may have had to seek an extension to the Contract Time or adjustment to the Contract Amount.

14.2 Construction Manager shall afford each utility owner and other contractor who is a party to such a direct contract (or Owner, if Owner is performing the additional work with Owner's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its Work with theirs. Construction Manager shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Construction Manager shall be responsible for all damage to the work of others caused by the performance of its Work. Further, Construction Manager shall not in any way cut or alter the work of others without first receiving the written consent of that other person and Design Professional.

14.3 If any part of Construction Manager's Work depends for proper execution or results upon the work of any other contractor or utility owner (or Owner), Construction Manager shall inspect and promptly report to Design Professional in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Such report must be made within seven (7) calendar days of the time Construction

Manager first became aware of the delay, defect or deficiency or by the scheduled commencement of Construction Manager's dependent Work, whichever occurs first. Construction Manager's failure to report within the allotted time will constitute an acceptance of the other work as fit and proper for integration with Construction Manager's Work.

15. **INSURANCE.**

15.1 During the term of this Agreement Construction Manager shall provide, pay for, and maintain, with companies satisfactory to Owner, the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida. Simultaneously with the execution and delivery of this Agreement by Construction Manager, Construction Manager has delivered to Owner properly executed Certificates of Insurance evidencing the fact that Construction Manager has acquired and put in place the insurance coverages and limits required hereunder. In addition, certified, true and exact copies of all insurance policies required shall be provided to Owner, on a timely basis, if requested by Owner. These Certificates and policies shall contain provisions that thirty (30) calendar days written notice by registered or certified mail shall be given Owner of any cancellation, intent not to renew, or reduction in the policies' coverages, except in the application of the Aggregate Limits Provisions. Construction Manager shall also notify Owner, in a like manner, within two (2) calendar days after receipt, of any notices of expiration, cancellation, non-renewal or material change in coverages or limits received by Construction Manager from its insurer, and nothing contained herein shall relieve Construction Manager of this requirement to provide notice. In the event of a reduction in the aggregate limit of any policy to be provided by it hereunder, Construction Manager shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy. All insurance coverages of Construction Manager shall be primary to any insurance or self-insurance program carried by Owner applicable to this Agreement.

15.2 Owner is self-insured, in accordance with Section 768.28, Florida Statutes, and will provide a certificate of self-insurance satisfactory to Construction Manager. Owner will provide Construction Manager with a certificate of coverage.

15.2.1 The term "Board of County Commissioners of Alachua County, Florida" shall include Advisory Boards, Divisions, Departments and offices thereof and individual members and employees thereof in their official capacity, and/or while acting on behalf of Alachua County.

15.2.2 All insurance policies, other than the Professional Liability policy and the Workers Compensation policy, provided by Construction Manager to meet the requirements of this Agreement shall name The Board of County Commissioners of Alachua County, Florida, as that name is defined in subparagraph 15.2.1, above, as an additional insured as to the operations of Construction Manager under the Contract Documents and shall contain a severability of interests provisions.

15.2.3 Companies issuing the insurance policy or policies shall have no recourse against Owner for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Construction Manager.

15.2.4 All insurance coverages of Construction Manager shall be primary to any insurance or self-insurance program carried by Owner applicable to this Agreement, and the "Other Insurance" provisions of any policies obtained by Construction Manager shall not apply to any insurance or self-insurance program carried by Owner applicable to this Agreement.

15.2.5 The Certificates of Insurance, which are to be provided pursuant to paragraph 15.1 above, must identify this Contract.

15.2.6 All insurance policies shall be fully performable in Alachua County, Florida, and shall be construed in accordance with the laws of the State of Florida.

15.2.7 All insurance policies to be provided by Construction Manager pursuant to the terms hereof must expressly state that the insurance company will accept service of process in Alachua County, Florida and that the exclusive venue for any action concerning any matter under those policies shall be in the appropriate state court situated in Alachua County, Florida.

15.3 The acceptance by Owner of any Certificate of Insurance pursuant to the terms of this Agreement evidencing the insurance coverages and limits required hereunder does not constitute approval or agreement by Owner that the insurance requirements have been met or that the insurance policies shown on the Certificates of Insurance are in compliance with the requirements of this Agreement.

15.4 Before starting and until completion of all Services required hereunder, Construction Manager shall procure and maintain insurance of the types and to the limits specified in Exhibit E, "Insurance Coverage," which is attached hereto and made a part hereof. Construction Manager shall require each of its subconsultants and subcontractors to procure and maintain, until the completion of that subconsultant's or subcontractor's work or services, insurance of the types and to the limits specified in Exhibit E, unless such insurance requirement for the subconsultant or subcontractor is expressly waived in writing by Owner.

15.5 If any insurance provided pursuant to this Agreement expires prior to the completion of the Services required hereunder, renewal Certificates of Insurance and, if requested by Owner, certified, true copies of the renewal policies, shall be furnished to Owner thirty (30) calendar days prior to the date of expiration.

15.6 Should at any time Construction Manager not maintain the insurance coverages required in this Agreement, Owner may cancel the Agreement and any Work Authorizations issued pursuant to the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge Construction Manager for such coverages purchased. If

Construction Manager fails to reimburse Owner for such costs within thirty (30) calendar days after demand, Owner has the right to offset these costs from any amount due Construction Manager under this Agreement. Owner shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company/companies used. The decision of Owner to purchase such insurance coverages shall in no way be construed to be a waiver of its rights under this Agreement.

15.7 All insurance companies from whom Construction Manager obtains the insurance policies required hereunder must meet the following minimum requirements:

15.7.1 The insurance company must be duly licensed and authorized by the Department of Insurance of the State of Florida to transact the appropriate insurance business in the State of Florida.

15.7.2 The insurance company must have been in such insurance business continuously for not less than five (5) years immediately prior to the date of execution of this Agreement.

15.7.3 The insurance company must have an A. M. Best policyholder rating of either "A+", "A", or "A-".

15.7.4 The insurance company must have a current A. M. Best financial rating of "Class VI" or higher.

15.8 Construction Manager is aware of the Owner Controlled Insurance Program and shall incorporate the most current OCIP manuals, if appropriate, into the documents to be prepared by Construction Manager per this Agreement.

15.9 Owner shall maintain property insurance with respect to the Project. The property insurance shall include the interests of Construction Manager and its subcontractors and suppliers in the Project. The property insurance shall be an "All Risk" type of policy, with coverage amounts, deductibles and sublimits established by Owner. Any losses under the property insurance shall be adjusted by Owner, with the cooperation of Construction Manager, with any claim check being made payable to Owner. Construction Manager shall be liable and responsible for all property insurance deductibles up to the amount of Five Thousand Dollars (\$5,000.00) on each loss occurrence.

16. WAIVER OF SUBROGATION.

16.1 Owner and Construction Manager waive all rights of subrogation against each other, Design Professional, the Program Manager (if any), and the board members, directors, officers, agents, employees, subconsultants and subcontractors of any of them, for damages or injuries caused by perils covered by any insurance maintained by a party hereunder, to the extent such damages or injuries are covered by such insurance, except no party hereto

waives any rights they may have to the proceeds of such insurance held by another party. Construction Manager shall require similar waivers from all its subcontractors.

16.2 If any policies of insurance referred to in this Section require an endorsement to provide any waiver of subrogation referenced above, the owners of such policies will cause them to be so endorsed.

17. INDEMNIFICATION.

17.1 To the maximum extent permitted by Florida law, Construction Manager shall defend, indemnify and hold harmless Owner and its officers and employees from any and all liabilities, claims, damages, penalties, demands, judgments, actions, proceedings, losses or costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, whether resulting from any claimed breach of this Agreement by Construction Manager or from personal injury, property damage, direct or consequential damages, or economic loss, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Construction Manager or anyone employed or utilized by the Construction Manager in the performance of this Agreement. The duty to defend under this Article is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of the Construction Manager, Owner and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to Construction Manager. Construction Manager's obligation to indemnify and defend under this Article will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the Owner or an indemnified party for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

17.2 This obligation shall in no way be limited in any nature whatsoever by any limitation on the amount or type of Construction Manager insurance coverage. This indemnification provision shall survive the termination of this Agreement between the County and the Construction Manager.

17.3 In any and all claims against the County or any of its agents or employees by any employee of the Construction Manager, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Article shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Construction Manager or any Subcontractor under workmen's compensation acts, disability benefit acts or employee benefit acts.

18. CLEANUP AND PROTECTIONS.

18.1 Construction Manager agrees to keep the Project site clean at all times of debris, rubbish and waste materials arising out of the Work. If Construction Manager fails to

keep the Project site clean, Owner has the right, after providing a twenty-four (24) hour written notice, to perform any required clean up and to back charge the Construction Manager for the costs of such clean up. At the completion of the Work, Construction Manager shall remove all debris, rubbish and waste materials from and about the Project site, as well as all tools, appliances, construction equipment and machinery and surface materials, and shall leave the Project site clean and ready for occupancy by Owner.

18.2 Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Construction Manager from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Construction Manager to condition at least equal to that existing at the time of Construction Manager's commencement of the Work.

19. ASSIGNMENT.

19.1 Construction Manager shall not assign this Contract or any part thereof, without the prior consent in writing of Owner. If Construction Manager does, with approval, assign this Contract or any part thereof, it shall require that its assignee be bound to it and to assume toward Construction Manager all of the obligations and responsibilities that Construction Manager has assumed toward Owner.

20. PERMITS, LICENSES AND TAXES.

20.1 All permits and licenses necessary for the prosecution of the Work shall be procured and paid for by Construction Manager. Permits and licenses to be acquired by Construction Manager with the assistance of Design Professional include, but are not limited to, building, site, and utility permits, as well as all Health Department (DER) permits required for the construction or relocation of Alachua County water and/or sanitary sewer lines and facilities, to the extent such water and/or sewer work is included in this Contract. If Construction Manager performs any Work without obtaining, or contrary to, such permits or licenses, Construction Manager shall bear all costs arising there from. All costs incurred by Construction Manager with respect to performing its obligations under this Paragraph 20.1 shall be considered a direct cost item and shall be considered reimbursable as Cost of the Work as provided for in the Agreement. The Owner shall fully cooperate with the Construction Manager where necessary. Construction Manager shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.

20.2 Construction Manager shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work. Additionally, Construction Manager shall comply with and fully implement the sales tax savings program with respect to the Work, as set forth below in Paragraph 20.3.

20.3 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. Construction Manager shall prepare purchase orders to vendors selected by Construction Manager, for execution by Owner, on forms provided by Owner. Construction Manager shall allow two weeks for execution of all such purchase orders by Owner. Construction Manager represents and warrants that it will use its best efforts to cooperate with Owner in implementing this sales tax savings program in order to maximize cost savings for the Project. Within thirty (30) days after the GMP is established, Construction Manager will process one (1) deductive Change Order under the Agreement for the entire estimated amount of Owner Direct Purchases, inclusive of sales taxes. Prior to the final payment, a final reconciliation of the Owner Direct Purchases against the GMP will be performed and such deductive Change Order will be prepared for the Owner's review and approval. With respect to all direct purchases by Owner, Construction Manager shall remain responsible for coordinating, ordering, inspecting, accepting delivery, storing, handling, installing, warranting and quality control for all direct purchases. Notwithstanding anything herein to the contrary, Construction Manager expressly acknowledges and agrees that any materials or equipment directly purchased by Owner pursuant this Paragraph 20.3 shall be included within and covered to the same extent as all other warranties provided by Construction Manager pursuant to the terms of the Contract Documents. Owner shall assign to Construction Manager any and all warranties and rights Owner may have from any manufacturer or supplier of any such direct purchases by Owner.

21. TERMINATION FOR DEFAULT.

21.1 Construction Manager shall be considered in material default of the Contract and such default shall be considered cause for Owner to terminate the Contract, in whole or in part, as further set forth in this Article, if Construction Manager: (1) fails to begin the Work under the Contract Documents within the time specified herein; or (2) fails to properly and timely perform the Work as directed by Owner or Design Professional or as provided for in the approved Master Project Schedule; or (3) performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or (4) discontinues the prosecution of the Work contrary to the requirements of the Contract; or (5) fails to resume Work which has been suspended within a reasonable time after being notified to do so; or (6) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or (7) allows any final judgment to stand against it unsatisfied for more than ten (10) days; or (8) makes an assignment for the benefit of creditors; (9) fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or (10) fails to promptly pay its subcontractors and suppliers; or (11) materially breaches any other provision of the Contract Documents.

21.2 If Owner determines that Construction Manager is in default under this Contract, Owner shall notify Construction Manager in writing of Construction Manager's default(s). If Owner determines that Construction Manager has not remedied and cured the default(s) within seven (7) calendar days following receipt by Construction Manager of said written notice, then Owner, at its option, without releasing or waiving its rights and remedies against Construction Manager's sureties and without prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate Construction Manager's right to proceed

under the Contract, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of Construction Manager, take assignments of any of Construction Manager's subcontracts and purchase orders that Owner may designate, and complete all or any portion of Construction Manager's Work by whatever means, method or agency which Owner, in its sole discretion, may choose. If default is solely a result of Construction Manager's failure to construct in accordance with the Master Project Schedule, then twenty-one (21) calendar days shall be allowed to cure the default. In making either the initial determination that Construction Manager is in default under this Contract or the subsequent determination that Construction Manager has failed to satisfactorily cure its default, Owner may rely solely upon the Design Professional's certification to Owner that in the Design Professional's opinion the Construction Manager is in default or has failed to satisfactorily cure its default. The County Manager has authority to terminate the Contract.

21.3 If Owner deems any of the foregoing remedies necessary, Construction Manager agrees that it shall not be entitled to receive any further payments hereunder until after the Work is completed. All monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including Design Professional and attorneys' fees) or damages incurred by Owner incident to such completion, shall be deducted from the unpaid balance of the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, Construction Manager agrees to pay promptly to Owner on demand the full amount of such excess, including costs of collection, attorney's fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures and damages incurred by Owner to complete the Work, Construction Manager shall not be entitled to any portion of such excess, except for the unpaid portion of the Construction Management Fee earned and the Cost of Work incurred prior to Construction Manager's right to continue performance under this Contract being terminated. Any amounts to be paid to Owner by Construction Manager pursuant to this Paragraph 21.3 shall be certified by Design Professional, upon application, and this obligation for payment shall survive termination of the Contract.

21.4 The liability of Construction Manager hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained, and obligations assumed by Owner in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefor or re-letting the Work, and in settlement, discharge or compromise of any claims, demands, suits, and judgments pertaining to or arising out of the Work hereunder. Further, in the event Owner has exercised its right to terminate due to Construction Manager's default, Construction Manager shall be prohibited from bidding or otherwise seeking additional work from Owner in accordance with Owner's then current debarment policy.

21.5 If, after notice of termination of Construction Manager's right to proceed pursuant to this Article, it is determined for any reason that Construction Manager was not in default, or that its default was excusable, or that Owner is not entitled to the remedies against

Construction Manager provided herein, then such termination shall be deemed a termination for Owner's convenience and Construction Manager's remedies against Owner shall be the same as and limited to those afforded Construction Manager under Paragraph 22.1 below.

22. TERMINATION FOR CONVENIENCE AND RIGHT OF SUSPENSION.

22.1 Owner shall have the right to terminate this Contract without cause upon seven (7) calendar days written notice to Construction Manager. In the event of such termination for convenience, Construction Manager's recovery against Owner shall be limited to that portion of the Contract Amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but Construction Manager shall not be entitled to any other or further recovery against Owner, including, but not limited to, damages, consequential or special damages, or any anticipated profit on portions of the Work not performed.

22.2 Owner shall have the right to suspend all or any portions of the Work upon giving Construction Manager two (2) calendar days' prior written notice of such suspension. If all or any portion of the Work is so suspended, Construction Manager's sole and exclusive remedy shall be to seek an extension to the Contract Time in accordance with the procedures set forth in the Contract Documents. In no event shall Construction Manager be entitled to any additional compensation or damages except as otherwise expressly provided for in the Contract Documents. Provided, however, if the ordered suspension exceeds ninety (90) calendar days, Construction Manager shall have the right to terminate the Contract with respect to that portion of the Work which is subject to the ordered suspension.

23. COMPLETION.

23.1 When the entire Work (or any portion thereof designated in writing by Owner) is ready for its intended use, Construction Manager shall notify Owner and Design Professional in writing that the entire Work (or such designated portion) is substantially complete and request that Design Professional issue a Certificate of Substantial Completion (or Certificate of Partial Substantial Completion). Said written notice from Construction Manager shall include a proposed punchlist of all items of Work to be completed or corrected by Construction Manager. Ten copies of the punchlist shall be provided to the County. Within a reasonable time thereafter, Owner, Construction Manager and Design Professional shall make an inspection of the Work (or designated portion thereof) to determine the status of completion. If Owner and Design Professional do not consider the Work (or designated portion) substantially complete, Design Professional shall notify Construction Manager in writing giving the reasons therefore. In such case, Construction Manager shall pay the costs of all additional Substantial Completion inspections. If Owner and Design Professional consider the Work (or designated portion) substantially complete, Design Professional shall prepare and deliver to Construction Manager a Certificate of Substantial Completion (or Certificate of Partial Substantial Completion) which shall fix the date Substantial Completion for the entire Work (or designated portion thereof) is actually achieved by Construction Manager. A final punchlist will be provided by Owner in accordance with section 4.6. Failure to include an item on the final

punchlist does not waive Owner's right to demand completion of the item pursuant to the Contract Documents prior to or after final payment. Owner shall have the right to exclude Construction Manager from the Work and Project site (or designated portion thereof) after the date of Substantial Completion (or Partial Substantial Completion), but Owner shall allow Construction Manager reasonable access to complete or correct items on the final punchlist.

23.2 When Construction Manager believes it has fully performed all of the Work, including all punchlist items, Construction Manager shall deliver to Owner (1) a written affidavit from Construction Manager certifying that all Work has been completed in accordance with the requirements of the Contract Documents and (2) Releases of Liens from every subcontractor, materialman and supplier that has supplied services or materials to the Project in the form outline in Exhibit M. That written affidavit shall be delivered to Owner by Construction Manager at the same time it submits its final Application for Payment. After receipt of such affidavit, the final Application for Payment and all other documents required for Project close-out, Design Professional and Owner shall promptly inspect the Work to determine if all of the Work has been completed and is ready for final acceptance by Owner. If Owner and Design Professional determine Construction Manager has completed the entire Work, Design Professional shall promptly issue a final Certificate for Payment, stating that, to the best of its knowledge, information and belief, and on the basis of its observations and inspections: (i) all of the Work has been completed in accordance with the requirements of the Contract Documents; (ii) the final balance due Construction Manager, as noted in the final Certificate for Payment, is due and payable; and (iii) all conditions precedent to Construction Manager's entitlement to final payment have been satisfied. Neither the final payment nor the retainage shall become due and payable until Construction Manager submits: (1) the final Release and Affidavit in the form attached to the Agreement as Exhibit F, (2) consent of surety to final payment, and (3) if required by Owner, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by Owner. Owner reserves the right to inspect the Work and make an independent determination as to the Work's acceptability, even though Design Professional may have issued its recommendations. Unless and until Owner is completely satisfied, neither the final payment nor the retainage shall become due and payable.

24. WARRANTY.

24.1 Construction Manager shall obtain and assign to Owner all express warranties given to Construction Manager by any subcontractors or by any materialmen supplying materials, equipment or fixtures to be incorporated into the Project. Construction Manager expressly warrants to Owner that all materials and equipment to be incorporated into the Work shall be new unless otherwise specified. Further, Construction Manager expressly warrants to Owner that all Work shall be of good quality, free from all defects and in conformance with the Contract Documents. Construction Manager further warrants to Owner that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. Further, any special warranty to be provided will be in such form

as is acceptable to Owner and shall not include any exclusions, exceptions or modifications except to the extent approved by Owner in its sole discretion. In addition to all other rights and remedies available to Owner at law or in equity, including any implied warranties Owner may be entitled to as a matter of law, Construction Manager expressly warrants to Owner that it shall promptly correct, upon receipt of written notice from Owner, any portion of the Work which is found to be defective or otherwise not in conformance with the requirements of the Contract Documents. In the event that any defective or non-conforming work is deemed by Owner in its sole discretion to present an immediate threat to safety or security, Owner shall be entitled to correct and fix such defective or non-conforming portions of the Work, and Construction Manager shall reimburse Owner for all costs and expenses incurred by Owner in performing such Work. This obligation to correct defective or nonconforming Work shall run for a period of one year (or such longer period of time as may otherwise be specified in the Contract Documents) commencing from the date Substantial Completion is achieved. With respect to the correction of any defective or nonconforming Work, Construction Manager shall be liable for all damage to any part of the Work itself and to any adjacent property which is caused by such corrective work. With respect to the correction of any defective or nonconforming Work, Construction Manager shall be liable for all damage to any part of the Work itself and to any adjacent property which is caused by such corrective work. Construction Manager shall conduct, jointly with Owner and Design Professional, a warranty inspection at six (6) months and eleven (11) months after the date Substantial Completion is achieved. Construction Manager's warranty excludes remedy for damage or defect caused by Owner's abuse, modifications not performed by Construction Manager, improper or insufficient maintenance by Owner (unless such maintenance was performed in accordance with the directions from Construction Manager), improper operation by Owner (unless such operations were performed in accordance with the directions from Construction Manager), or normal wear and tear under normal usage.

25. TESTS AND INSPECTIONS.

25.1 Owner, Design Professional, their respective representatives, agents and employees, and governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project site, for their observation, inspection and testing. Construction Manager shall provide proper, safe conditions for such access. Construction Manager shall provide Design Professional and Owner's Uniform Building Construction Inspector with timely prior written notice (at least 48 hours) of the readiness of the Work for all required inspections, tests or approvals.

25.2 Within 30 days of the start of construction, the Construction Manager shall provide Owner with a list of all tests and inspections to be performed.

25.3 If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Construction Manager shall assume full responsibility therefore, pay all costs in connection therewith and furnish Design Professional the required certificates of inspection, testing or approval. All inspections, tests or

approvals shall be performed in a manner and by organizations acceptable to Owner and Design Professional.

25.4 If any Work that is to be inspected, tested or approved pursuant to the Contract Documents is covered without such inspection, testing or approval having been satisfactorily obtained by Construction Manager and without obtaining the written concurrence from Design Professional, such Work must, if requested by Design Professional, be uncovered for observation. Such uncovering shall be at Construction Manager's expense unless Construction Manager has given Design Professional 48 hours written notice of Construction Manager's intention to cover the same and has requested written concurrence by Design Professional and Design Professional has not acted with reasonable promptness to respond to such notice and request. If any Work is covered contrary to written directions from Design Professional, such Work must, if requested by Design Professional, be uncovered for Design Professional's observation and be replaced at Construction Manager's sole expense.

25.5 Owner shall charge to Construction Manager and may deduct from any payments due Construction Manager all engineering and inspection expenses incurred by Owner in connection with any overtime work unless such overtime work was expressly requested by the Owner and the Construction Manager was on schedule. Such overtime work consisting of any work during the construction period beyond the regular eight (8) hour day and for any work performed on Saturday, Sunday or holidays.

25.6 Neither observations by Design Professional or Owner, nor inspections, tests or approvals by others shall relieve Construction Manager from Construction Manager's obligations to perform the Work in accordance with the Contract Documents.

25.6 Construction Manager is responsible, without reimbursement from Owner, for re-inspection fees and costs; to the extent such re-inspections are due to the fault or neglect of Construction Manager.

26. DEFECTIVE WORK.

26.1 Work not conforming to the requirements of the Contract Documents shall be deemed defective Work. If required by Owner or Design Professional, Construction Manager shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the defective Work has been rejected by Owner or Design Professional, remove it from the site and replace it with non-defective Work. Construction Manager shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold Owner and Design Professional harmless for same.

26.2 If Owner or Design Professional consider it necessary or advisable that covered Work be observed by Design Professional or inspected or tested by others, Construction Manager, at Design Professional's or Owner's request, shall uncover, expose or otherwise make available for observation, inspection or tests as Owner or Design Professional may require, that

portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Construction Manager shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and Owner shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Construction Manager shall be allowed an increase in the Contract Amount and/or an extension to the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

26.3 Owner shall have the right to order Construction Manager to stop all or any portion of the Work if at any time Owner reasonably determines that Construction Manager's performance of the Work is not in compliance with the requirements of the Contract Documents. Such noncompliance shall include, but is not limited to, Construction Manager's failure to provide adequate labor, materials or equipment to satisfactorily maintain the various Project schedules (including the Master Project Schedule). This right to stop the Work shall be exercised, if at all, solely for Owner's benefit and nothing herein shall be construed as obligating Owner to exercise this right for the benefit of Construction Manager or any other person.

26.4 Should Owner determine, at its sole opinion, it is in Owner's best interest to accept defective Work, the Owner may do so. Construction Manager shall bear all direct, indirect and consequential costs attributable to Owner's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If Owner accepts such defective Work after final payment, Construction Manager shall promptly pay Owner an appropriate amount determined by Owner to adequately compensate Owner for its acceptance of the defective Work.

26.5 If Construction Manager fails, within a reasonable time after the written notice from Owner or Design Professional, to correct defective Work or to remove and replace rejected defective Work as required by Owner or Design Professional, or if Construction Manager fails to perform the Work in accordance with the Contract Documents, or if Construction Manager fails to comply with any of the provisions of the Contract Documents, Owner may, after seven (7) days' written notice to Construction Manager, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, Owner may exclude Construction Manager from any or all of the Project site, take possession of all or any part of the Work, and suspend Construction Manager's services related thereto, take possession of Construction Manager's tools, appliances, construction equipment and machinery at the Project site and incorporate in the Work all materials and equipment stored at the Project site or for which Owner has paid Construction Manager but which are stored elsewhere. Construction Manager shall allow Owner, Design Professional and their respective representatives, agents, and employees such access to the Project site as may be necessary to enable Owner to exercise the rights and remedies under this Paragraph. All direct, indirect and consequential costs of Owner in exercising such rights and remedies shall be charged against

Construction Manager, and a Change Order or a Construction Change Directive shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court and arbitration costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of Construction Manager's defective Work. Construction Manager shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by Owner of Owner's rights and remedies hereunder.

27. SUPERVISION AND CONSTRUCTION MANAGER'S REPRESENTATIVE.

27.1 Construction Manager is responsible for supervising, coordinating and performing the Work with such care and skill as would be provided by a contractor with extensive and special expertise in the type of work required under the Contract Documents. Construction Manager is responsible for completing the Work so that it complies accurately and completely with the requirements of the Contract Documents. Construction Manager shall keep on the Work at all times during its progress a competent resident representative who shall not be replaced without prior written notice to Owner and Design Professional except under extraordinary circumstances. The representative shall have authority to act on behalf of Construction Manager. All communications given to the representative shall be as binding as if given to Construction Manager. Owner shall have the right to direct Construction Manager to remove and replace its Project representative or any other employee of Construction Manager or any employee of any subcontractor from this Project, with or without cause.

27.2 The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the Work and progress of the subcontractors. Construction Manager shall provide no less than those personnel during the respective phases of construction that are set forth in Exhibit J to the Agreement. The Construction Manager shall not change any of those persons identified in Exhibit J unless mutually agreed to in writing by the Owner and Construction Manager. In such case, the Owner shall have the right to approve the replacement personnel. The Facilities Manager may approve, in writing, changes to Exhibit J.

27.3 The Construction Manager shall establish and maintain lines of authority for its personnel, and shall provide this information to the Owner and all other affected parties, such as the code inspectors of any permitting authority, the subcontractors, and the Design Professional. The Owner and Design Professional may attend meetings between the Construction Manager and its subcontractors; however, such attendance is optional and shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontracts.

27.4 The Construction Manager shall be responsible to the Owner for the acts and omissions of its employees and agents and its subcontractors, their agents and employees, and all other persons performing any of the Work or supplying materials under a contract to the Construction Manager. The Construction Manager shall develop and maintain a program, acceptable to the Owner and Design Professional, to assure quality control of the Work. The Construction Manager shall supervise the Work of all subcontractors, providing instructions to each when their portion of the Work does not conform to the requirements of the Contract Documents and Construction Manager shall continue to exert its influence and control over each subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the Work. Should a disagreement occur between the Construction Manager and the Design Professional over the acceptability of the Work, the Owner, in its sole discretion, shall have the right to determine the acceptability.

27.5 The Construction Manager shall not employ on this Project any person who has been convicted of a felony or misdemeanor-level criminal charge regarding sexual abuse or misconduct, nor permit any subcontractor to assign any employee of it to this Project who has been convicted of a felony or misdemeanor-level criminal charge regarding sexual abuse or misconduct.

28. ACCESS AND PROTECTION OF WORK.

28.1 Construction Manager shall fully protect the Work and adjacent property from loss or damage and shall bear the cost of any such loss or damage until Substantial Completion is achieved. If Construction Manager or anyone for whom Construction Manager is legally liable is responsible for any loss or damage to the Work, or other work or materials of Owner or Owner's separate contractors, Construction Manager shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due Construction Manager.

28.2 The Construction Manager shall ascertain what temporary enclosures, of building areas, including existing facilities, or other measures to protect the site, should be provided for and may be provided as a practical matter, in order to assure orderly progress of the Work and to protect and secure the Work, existing facilities in the area of the project, in periods when extreme weather conditions are likely to be experienced.

28.3 Construction Manager shall not permit any unsafe loading of any structure at the Project site, nor shall Construction Manager subject any part of the Work or adjacent property to any forces that will endanger it.

28.4 Construction Manager shall not disturb any benchmark established by Owner with respect to the Project. If Construction Manager, or its subcontractors, agents or anyone for whom Construction Manager is legally liable, disturbs Owner's benchmarks, Construction Manager shall immediately notify Owner and Design Professional. Owner shall have the benchmarks reestablished and Construction Manager shall be liable for all costs incurred by Owner associated therewith.

28.5 Cooperation. The parties shall use reasonable efforts to assist each other in performing the Work, including providing reasonable access to the Owner's Service Location(s), providing information concerning the Service Location(s), making appropriate personnel available if requested to assist each party in performing the Work, and taking any other actions that each party may reasonably request from time to time to achieve the purposes and intent of this Contract.

28.6 Access. Upon the request of the Construction Manager, the Owner shall provide the Construction Manager and its Subcontractors with reasonable access to areas not already under control of the Construction Manager for performance of the Work. The Construction Manager also shall have access to these locations during the warranty period for purposes of performing its obligations thereunder.

29. EMERGENCIES.

29.1 Construction Manager shall take immediate action to prevent injury to any person or damage to any property (including the Work and any adjacent property) which otherwise might arise from an emergency event at the Project site. Construction Manager shall give Design Professional written notice within forty-eight (48) hours after the occurrence of the emergency, if Construction Manager believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If Design Professional determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Construction Manager fails to provide the forty-eight (48) hour written notice noted above, Construction Manager shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time. Construction Manager is obligated to promptly report in writing to Owner all accidents relating to the Work or site that result in any personal injury or property damage.

30. USE OF PREMISES.

30.1 At all times during the performance of the Work, Construction Manager shall keep all of its operations, (including, but not limited to, the use and storage of all equipment and materials), within the Project site or such other areas as may be permitted by the Contract Documents. Construction Manager shall not use the Project site in any manner that is unreasonably burdensome or otherwise inconsistent with Owner's interest. Construction Manager is responsible for any damage to any such area, or to the owner or occupant thereof, or any areas contiguous thereto, resulting from the performance of the Work.

30.2 Except as required by the Contract Documents or otherwise required in order for Construction Manager to satisfy its safety and security obligations under the Contract Documents, Construction Manager shall not erect or install, nor shall it permit any of its subcontractors, suppliers, subconsultants or any other party for whom it is legally responsible to erect or install, any signage upon the Project site or any other property of Owner, unless such

signage has been expressly approved in writing by Owner, which approval may be withheld by Owner in its sole discretion.

30.3 Construction Manager acknowledges that Work may be performed at a particular Project site where Owner simultaneously is conducting and continuing its operations upon the same site. In such event, Construction Manager shall coordinate its Work so as to cause no unreasonable interference with or disruption to Owner's operations.

30.4 Owner may take early occupancy of all or any portions of the Work, at Owner's election, by designating in writing to Construction Manager the specific portions of the Work to be occupied and the date such occupancy shall commence. If any such specific early occupancy was not expressly identified at the time the GMP was established and such early occupancy negatively impacts Construction Manager's cost or time of performance, Construction Manager shall be entitled to an equitable adjustment to the Contract Amount and the Contract Time, all in accordance with the other terms and conditions of the Contract Documents.

31. SAFETY.

31.1 Construction Manager is responsible for the safety and protection of all persons and property on or about the Project site during the progress of the Work. Further, it is Construction Manager's responsibility to protect from damage or loss all material and equipment to be incorporated into the Work which may be stored off the Project site. Construction Manager shall develop and implement, in accordance with the requirements of the Contract Documents (including any Owner requirements or regulations), a safety plan for the Work. A safety review checklist shall be submitted monthly to the Owner.

31.2 Construction Manager shall comply with all applicable codes, laws, ordinances, rules and regulations of Owner and any public body having jurisdiction over the Work, including all of their safety codes, laws, ordinances, rules and regulations. Construction Manager shall notify owners of adjacent property and of any underground structures or improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Construction Manager's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by Owner has occurred.

31.3 At all times during the performance of the Work at the Project site, Construction Manager shall have designated, and located on a full time basis at the Project site, a qualified individual whose responsibility shall be to monitor and enforce Construction Manager's safety program at the Project site. Construction Manager hereby designates its superintendent as that safety representative. Construction Manager may designate by written notice to Owner another individual, reasonably acceptable to Owner, who shall be Construction Manager's safety representative at the Project site.

31.4 Alcohol, drugs and all illegal substances are strictly prohibited on any Owner property. All employees of Construction Manager, as well as those of all subcontractors and those of any other person or entity for whom Construction Manager is legally liable (collectively referred to herein as “Employees”), shall not possess or be under the influence of any such substances while on any Owner property. Further, Employees shall not bring on to any Owner property any gun, rifle or other firearm, or explosives of any kind unless authorized by federal or state law.

31.5 Construction Manager acknowledges that the Work may be progressing on a Project site which is located upon or adjacent to an existing Owner facility. In such event, Construction Manager shall comply with the following:

31.5.1 All Owner facilities are smoke free. Smoking is strictly prohibited;

31.5.2 All Employees shall be provided an identification badge by Construction Manager. Such identification badge must be prominently displayed on the outside of the Employees’ clothing at all times. All Employees working at the Project site must log in and out with the Construction Manager each day;

31.5.3 Construction Manager shall strictly limit its operations to the designated work areas and shall not permit any Employees to enter any other portions of Owner’s property without Owner’s expressed prior written consent;

31.5.4 All Employees are prohibited from distributing any papers or other materials upon Owner’s property, and are strictly prohibited from using any of Owner’s telephones or other office equipment;

31.5.5 All Employees shall at all times comply with the OSHA regulations with respect to dress and conduct at the Project site. Further, all Employees shall comply with the dress, conduct and facility regulations issued by Owner’s officials onsite, as said regulations may be changed from time to time;

31.5.6 All Employees shall enter and leave Owner’s facilities only through the ingress and egress points identified in the site utilization plan approved by Owner or as otherwise designated, from time to time, by Owner in writing;

31.5.7 When requested, Construction Manager shall cooperate with any ongoing Owner investigation involving personal injury, economic loss or damage to Owner’s facilities or personal property therein;

31.5.8 The Employees may not solicit, distribute or sell products while on Owner’s property. Friends, family members or other visitors of the Employees are not permitted on Owner’s property; and

31.5.9 At all times, Construction Manager shall adhere to Owner's safety and security regulations, and shall comply with all security requirements at Owner's facilities, as said regulations and requirements may be modified or changed by Owner from time to time.

31.5.10 Maintain visitor sign-in sheets.

32. PROJECT MEETINGS.

32.1 Prior to the commencement of Work, Construction Manager shall attend a preconstruction conference with Owner and Design Professional and others as appropriate to discuss the Master Project Schedule, procedures for handling shop drawings and other submittals, and for processing Applications for Payment, and to establish a working understanding among the parties as to the Work. During the prosecution of the Work, Construction Manager shall attend any and all meetings convened by Owner or Design Professional with respect to the Project, when directed to do so by Owner or Design Professional. Construction Manager shall have its subcontractors and suppliers attend all such meetings (including the preconstruction conference) as may be directed by Owner or Design Professional.

33. MATERIAL SAFETY DATA SHEET.

33.1 If any chemicals, materials, or products containing toxic substances, as defined by Chapter 442, Florida Statutes or any local, state or federal statutes or regulations, are contained in the products used on site or incorporated into the construction by the Construction Manager or any of its subcontractors, the Construction Manager shall provide to the Design Professional and Owner a Material Safety Data Sheet at the time of each delivery or prior to each new use of such product.

34. AUDITING RIGHTS AND INFORMATION.

34.1 Construction Manager shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of ten (10) years from the date of termination of this Contract or the date the Project is completed, whichever is later or such longer period of time as may be required by law. Construction Manager shall require all of its subcontractors to likewise retain all of their Project records and supporting documentation. Owner, and any duly authorized agents or representatives of Owner, shall be provided access to all such records and supporting documentation at any and all times during normal business hours upon request by Owner. Further, Owner, and any duly authorized agents or representatives of Owner, shall have the right to audit, inspect and copy all of Construction Manager's and any subcontractor's Project records and documentation as often as they deem necessary and Construction Manager shall cooperate in any audit, inspection, or copying of the documents. Employees personal information is excluded, if exempt under Ch. 119, F.S. These access, inspection, copying and auditing rights shall survive the termination of this Contract.

34.2 .If at any time, Owner conducts such an audit of Construction Manager's records and documentation and finds that Construction Manager overcharged Owner, Construction Manager shall pay to Owner the Overcharged Amount which is defined as the total aggregate overcharged amount together with interest thereon (such interest to be established at the rate of 12% annum). If the Overcharged Amount is equal to or greater than \$10,000.00, Construction Manager shall pay to Owner the Overcharged Amount and the Audit Amount which is defined as the total aggregate of Owner's reasonable audit costs incurred as a result of its audit of Construction Manager. Owner may recover the Overcharged Amount and the Audit Amount, as applicable, from any amount due or owing Construction Manager with regard to the Project or under any other agreement between Construction Manager and Owner. If such amounts owed Construction Manager are insufficient to cover the Overcharged Amount and Audit Amount, as applicable, then Construction Manager hereby acknowledges and agrees that it shall pay such remaining amounts to Owner within seven (7) business days of its receipt of Owner's invoice for such remaining amounts. In no event shall the Overcharged Amount or the Audit Amount be deemed a reimbursable Cost of the Work.

34.3 Confidential Information. During the term of this Contract, Construction Manager may claim that some or all of Construction Manager's information, including, but not limited to, software, documentation, manuals, written methodologies, and processes, pricing, discounts, or other considerations (hereafter collectively referred to as "Confidential Information", is, or has been treated as, confidential and proprietary by Construction Manager in accordance with Section 812.081, Florida Statutes, or other law, and is exempt from disclosure under the Chapter 119, Florida Statutes. Construction Manager shall clearly identify and mark Confidential Information as "Confidential Information" or "CI" and the Owner shall use its best efforts to maintain the confidentiality of the information properly identified by the Construction Manager as "Confidential Information" or "CI". Construction Manager shall provide redacted versions of documents containing CI, upon request of Owner. The Owner shall promptly notify the Construction Manager in writing of any request received by the Owner for disclosure of Construction Manager's Confidential Information and the Owner may assert any exemption from disclosure available under applicable law or seek a protective order against disclosure from a court of competent jurisdiction. Subject to the limitation provided in this provision. Owner shall protect, defend, indemnify, and hold the Owner, its officers, employees and agents free and harmless from and against any third party claims or judgments arising out of a request for disclosure of Confidential Information. Subject to the limitation provided in this provision, Construction Manager shall investigate, handle, respond to, and defend, using counsel of its choice, at Owner's sole cost and expense, any such third party claim, even if any such claim is groundless, false or fraudulent. Subject to the limitation provided in this provision, Construction Manager shall pay for all costs and expenses related to such claim, including, but not limited to, payment of attorney fees, court costs, and expert witness fees and expenses. Upon completion of this Agreement or license, the provisions of this Article 8 shall continue to survive. Construction Manager releases Owner from its obligations under this provisions arising from claims or damages related to disclosure by Owner, if such release is directed by or consented to in writing by Construction Manager.

34.4 This Article 34, including all access, inspection, copying, auditing, reimbursement, repayment rights and indemnification shall survive the termination of this Contract.

35. COMPLIANCE WITH LAWS.

35.1 Construction Manager agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, administrative orders, regulations and requirements applicable to the Project, including but not limited to those dealing with safety (including, but not limited to, the Trench Safety Act, Chapter 553, Florida Statutes). If Construction Manager observes that the Contract Documents are at variance therewith, it shall promptly notify Owner and Design Professional in writing. To the extent any law, rule, regulation, code, statute, or ordinance requires the inclusion of certain terms in this Agreement in order for this Agreement to be enforceable, such terms shall be deemed included in this Agreement. Notwithstanding anything in the Contract Documents to the contrary, it is understood and agreed that in the event of a change in any applicable laws, ordinances, rules or regulations subsequent to the date the GMP Amendment has been executed that increases the Construction Manager's time or cost of performance of the Work, Construction Manager is entitled to a Change Order for such increases, except to the extent Construction Manager knew or should have known of such changes prior to the date of the GMP Amendment.

36. SUBCONTRACTS.

36.1 The Construction Manager shall review the design and shall determine how it desires to divide the sequence of construction activities. Construction Manager will determine the breakdown and composition of bid packages for award of subcontracts, based on the current Master Project Schedule, and shall supply a copy of that breakdown and composition to Owner and Design Professional for their review and approval. Construction Manager shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and costs.

36.2 A subcontractor is any person or entity who is performing, furnishing, supplying or providing any portion of the Work pursuant to a contract with Construction Manager. Construction Manager shall be solely responsible for and have control over the subcontractors. Construction Manager shall negotiate all Change Orders, Construction Change Directive, Field Orders and Request for Proposals, with all affected subcontractors and shall review the costs of those proposals and advise Owner and Design Professional of their validity and reasonableness, acting in Owner's best interest, prior to requesting approval of each Change Order from Owner.

36.3 When Construction Manager submits its guaranteed maximum price proposal to Owner, Construction Manager also shall submit to Owner a list of the names, addresses, licensing information and phone numbers of the subcontractors Construction Manager

intends to use for each portion of the Work, as well as identifying in writing those portions of the Work it intends to perform with its own employees. The list identifying each subcontractor cannot be modified, changed, or amended without prior written approval from Owner. Any and all work to be self-performed by Construction Manager must be approved in writing by Owner in its sole discretion prior to commencement of such work. Construction Manager shall continuously update that subcontractor list, so that it remains current and accurate throughout the entire performance of the Work. Construction Manager shall not enter into a subcontract with any subcontractor, if Owner reasonably objects to that subcontractor. Construction Manager shall not be required to contract with anyone it reasonably objects to. As part of the Project document file to be maintained by Construction Manager at the Project site, Construction Manager shall keep on file a copy of the license for every subcontractor and sub-subcontractor performing any portion of the Work, as well as maintain a log of all such licenses. All subcontracts between Construction Manager and its subcontractors shall be in writing and are subject to Owner's approval. Further, all subcontracts shall (1) require each subcontractor to be bound to Construction Manager to the same extent Construction Manager is bound to Owner by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor, (2) provide for the assignment of the subcontracts from Construction Manager to Owner at the election of Owner upon termination of Construction Manager, (3) provide that Owner will be an additional indemnified party of the subcontract, (4) provide that Owner will be an additional insured on all insurance policies required to be provided by the subcontractor except workmans' compensation, (5) assign all warranties directly to Owner, (6) identify Owner as an intended third-party beneficiary of the subcontract, and (7) incorporate Exhibit E into all of its subcontracts (and require similar incorporation into all sub-subcontracts). Construction Manager shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Paragraph 36.3 and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents. Each subcontractor shall similarly make copies of such documents available to its sub-subcontractors.

36.4 The subcontractor must agree to provide field (on-site) supervision through a named superintendent for each trade (e.g., general concrete forming and placement, masonry, mechanical, plumbing, electrical and roofing) included in the subcontract. In addition, the subcontractor shall assign and name a qualified employee for scheduling direction for its work. The supervisory employees of the subcontractor (including field superintendent, foreman and schedulers at all levels) must have been employed in a supervisory (leadership) capacity of substantially equivalent level on a similar project for at least two years within the last five years. The subcontractor shall include a resume of experience for each employee identified by it to supervise and schedule its work.

36.5 Unless otherwise expressly agreed to by Owner in writing, all subcontracts shall provide:

36.5.1 LIMITATION OF REMEDIES - NO DAMAGES FOR DELAY

That the subcontractor's exclusive remedy for delays in the

performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Design Professional or attributable to the Owner or Design Professional and including claims based on breach of contract or negligence, shall be an extension of its contract time.

In the event of a change in the work, the subcontractor's claim for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus no more than % for overhead and profit.

The subcontract shall require the subcontractor expressly agree that the foregoing constitute its sole and exclusive remedies for delays and changes in the Work and thus eliminate any other remedies for claim for increase in the subcontract price, damages, losses or additional compensation. Further, Construction Manager shall incorporate terms of Paragraph 11.4 in all of its subcontracts and require all subcontractors to similarly incorporate such terms into their sub-subcontracts.

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

37. MARKET ANALYSIS AND SOLICITATION OF BIDS.

37.1 The purpose of this Paragraph is to insure that Construction Manager makes a genuine effort to stimulate subcontractor interest in the Project and maximize participation of potential qualified subcontractors in the bidding process. At all times Owner shall have access to and the right to require copies of all correspondence, records, files and other bid documents (including all bid responses) with respect to the bidding process. Further, Construction Manager shall notify Owner of the date, time and place of all bid openings and Owner shall have the right to attend any and all such bid openings. All bid openings shall be conducted in Alachua County, Florida. Finally, Construction Manager shall develop in writing subcontract bidding procedures for Owner's review and approval. Once those procedures have been approved by Owner, Construction Manager shall not deviate from such procedures without obtaining Owner's prior written consent.

37.1.1 The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for completing the

Work; Construction Manager shall make an analysis as necessary to (i) determine and report on availability of labor, materials, equipment, potential bidders, and possible impact of any shortages or surpluses of labor or material, and (ii) in light of such determination, make recommendations and take action as may be appropriate with respect to long lead procurement, separation of construction into bid packages, sequencing of Work, use of alternative materials, equipment or methods, other economics in design or construction, and other matters that will promote cost savings and completion within the Contract Time.

37.1.2 Within thirty (30) days after execution of this Contract, Construction Manager shall submit a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, Construction Manager shall submit to Owner and Design Professional a list of potential bidders for their review and approval. Construction Manager shall be responsible for promoting and encouraging bid competition.

37.1.3 The Construction Manager shall carry out an active program of stimulating interest of qualified subcontractors in bidding on the Work and of familiarizing those bidders with the requirements of this Project.

37.1.4. The Construction Manager shall encourage the use of energy efficient building materials and systems by educating bidders on such systems and process substitution requests.

37.2 Construction Manager shall prepare invitations for bids and all other appropriate bid documents for all procurement of long lead items, materials and services, for subcontractor contracts and for site utilities. All such invitations for bids and bid packages shall be submitted to Design Professional and Owner for their review and approval prior to distribution to bidders

37.2.1. Except as hereafter provided in Paragraph 37.5, all subcontracts are to be awarded to the lowest responsive and responsible bidder.

37.2.2 Subcontracts not exceeding \$25,000.00 may be awarded based upon verbal bids. Construction Manager shall obtain a minimum of at least two (2) verbal or written bids on all such subcontracts. All such bids received by Construction Manager shall be entered on a bid tabulation sheet and a copy of both the bids and the tabulation sheet shall be sent to Owner and Design Professional for their review and comments prior to Construction Manager awarding the subcontract.

37.2.3 Subcontracts exceeding \$25,000.00 must be publicly advertised for at least two (2) consecutive weeks prior to the established bid opening time and date. All such bids must be in writing and shall be received and opened in the manner and at the location, date and time established in the bid documents. All such bids received by Construction Manager shall be entered on a bid tabulation sheet and a copy of both the bids and the tabulation sheet shall be

sent to Owner and Design Professional for their review and comment prior to Construction Manager awarding the subcontract.

37.3 As part of its bid preparation, Construction Manager shall review the specifications and drawings prepared by Design Professional. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by Construction Manager shall be brought to the attention of Owner and Design Professional in written form.

37.4 For each subcontract that exceeds \$25,000, Construction Manager shall, unless waived in writing by Owner, conduct a pre-bid conference with prospective bidders and a pre-award conference with the apparent successful bidder. Design Professional and Owner shall be invited to all such meetings. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, Construction Manager shall transmit these to Design Professional in writing and upon receiving clarification or correction in writing from Owner or Design Professional shall issue an addendum to the bidding documents to all of the prospective bidders.

37.5 Notwithstanding the provision above requiring award of subcontracts to the lowest responsive and responsible bidder, Construction Manager may award a subcontract to someone other than the lowest responsive and responsible bidder provided Construction Manager has first received Owner's express written consent to such award. Owner's consent to any such award will be at Owner's sole discretion. Whenever Construction Manager wishes to award a subcontract to someone who is not the lowest responsive and responsible bidder, Construction Manager must notify Owner in writing, setting out in detail the reasons and justifications for the suggested award.

38. PARTNERING.

38.1 The Construction Manager, prior to commencement of the Construction Phase Services, shall prepare and submit for the Owner's approval a proposed Partnering Program for the Project. The Partnering Program shall contain, at a minimum, procedures for the enhancement of communication and cooperation between the Owner, Construction Manager, Design Professional, separate contractors, inspectors and other consultants and subcontractors on the Project, as well as procedures for the speedy and efficient resolution of problems and disagreements during construction. Upon approval by the Owner, the Partnering Program shall be implemented and coordinated by the Construction Manager throughout the remainder of the Project.

39. SECURING AGREEMENT.

39.1 Construction Manager warrants that Construction Manager has not employed or retained any company or person, other than a bona fide employee working solely for Construction Manager, to solicit or secure this Contract and that Construction Manager 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 any other consideration contingent upon or resulting from the award or making of this Contract. At the time this Contract is executed, Construction Manager shall sign and deliver to Owner the Truth-in-Negotiation Certificate attached hereto and made a part hereof as Exhibit L. The Construction Manager's compensation shall be adjusted to exclude any sums by which Owner determines the compensation was increased due to inaccurate, incomplete, or non-current wage rates or other factual unit costs.

40. PUBLIC ENTITY CRIMES.

40.1 By its execution of this Agreement, Construction Manager acknowledges that it has been informed by OWNER of the terms of Section 287.133(2)(a) of the Florida Statutes which read as follows:

"A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

41. EQUAL EMPLOYMENT OPPORTUNITY/NON-DISCRIMINATION/ SBE.

41.1 In performing all services to be provided hereunder, the Construction Manager shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Construction Manager shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such actions shall include, but not be limited to, the following: (i) employment, upgrading, demotion or transfer; (ii) recruitment or recruitment advertising; (iii) layoff or termination; (iv) rates of pay or other forms of compensation; and (v) selection for training, including apprenticeship. The Construction Manager shall post in conspicuous places, available to all employees and applicants for employment notices setting forth the terms of this Equal Employment Opportunity Non-Discrimination Clause and stating that all qualified candidates will receive consideration for employment without regard to race, color, religion, sex or national origin. Construction Manager shall comply with Owner's current SBE policy. Construction Manager's SBE goal for this Project is 15 percent. With each payment application submitted by Construction Manager, as a condition precedent to its entitlement to payment, Construction Manager shall also submit, on the form attached as part of Exhibit G, a monthly written report to Owner concerning the status

of all payments owed and paid by Construction Manager to its various SBE subcontractors and suppliers. Said monthly status report shall be in such form and contain such detail as may be required by Owner.

42. CHANGED CONDITIONS

42.1. Notwithstanding anything in the Contract Documents to the contrary, if conditions are encountered at the Project site which are (i) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (ii) unknown physical conditions of an unusual nature, which 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, and which reasonably should not have been discovered by Construction Manager as part of its scope of site investigative services required pursuant to the terms of the Contract Documents, then Construction Manager shall provide Owner with prompt written notice thereof before conditions are disturbed and in no event later than seven (7) calendar days after first observance of such conditions. Owner and Design Professional shall promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Construction Manager's cost of, or time required for, performance of any part of the Work, Owner will acknowledge and agree to an equitable adjustment to the Contract Amount or Contract Time, or both, for such Work. If Owner determines that the conditions at the site are not materially different from those indicated in the Contract Document or not of an unusual nature or should have been discovered by Construction Manager as part of its investigative services, and that no change in the terms of the Contract is justified, Owner shall so notify Construction Manager in writing, stating its reasons. Claims by Construction Manager in opposition to such determination by Owner must be made within seven (7) calendar days after Construction Manager's receipt of Owner's written determination notice. If Owner and Construction Manager cannot agree on an adjustment to the Contract Amount or Contract Time, the dispute resolution procedure set forth in the Contract Documents shall be complied with by the parties.

43. OWNERSHIP RIGHTS

43.1 Owner will be the exclusive owner of all work product delivered to Owner in connection with or during the performance of services provided pursuant to this Contract ("Work Products"); provided, however, that Construction Manager shall be the exclusive owner of any and all intellectual property rights in the Work Products, including patents, copyrights, trade secrets, trademarks, moral rights, and similar rights of any type under the laws of any governmental authority (collectively, "Intellectual Property Rights"). Construction Manager hereby grants Owner and its designees the exclusive, limited, transferable, perpetual and royalty free right to use the Intellectual Property Rights in the Work Product for the sole purpose of implementing, operating and using the Services in the Work Product at Owner's Service Location(s).

END OF GENERAL TERMS AND CONDITIONS

EXHIBIT B

SUPPLEMENTAL TERMS AND CONDITIONS

The following Supplemental Terms and Conditions hereby amend, modify and supersede in the event of a conflict the terms of the Agreement and the General Terms and Conditions attached thereto as Exhibit A.

A. Construction Manager shall provide the Owner, its representatives and the Design Professional with copies of a Policy and Procedure Manual (total number of copies not to exceed ____) developed and updated in accordance with the following requirements:

1. Upon execution of the Agreement, the Construction Manager shall develop a draft of the comprehensive Policy and Procedure Manual describing the services to be provided by the Construction Manager per the Contract Documents. This shall provide a plan for the control, direction, coordination and evaluation of the Work performed throughout the Project; the Project organization including identification of key personnel, responsibilities of the Construction Manager, Owner and Design Professional; Work flow diagrams; and strategy for bidding and subcontracting the Work. The Owner shall have the right to review the Policy and Procedure Manual and to approve its content and format. The Policy and Procedure Manual may be updated as necessary throughout the Pre-Construction and Construction Phases, but substantive changes will not be made without the Owner's prior written concurrence. Five (5) copies of the Policy and Procedure Manual and any updates shall be submitted to the Owner and Design Professional. In developing the Policy and Procedure Manual, the Construction Manager shall coordinate and consult with the Owner and the Design Professional. The initial manual shall be submitted to the Owner for approval.
2. Contents of Policy and Procedure Manual: The Policy and Procedure Manual shall describe in detail the procedures for executing the Work and the organizations participating. The Policy and Procedure Manual shall include, as a minimum, the following sections:
 - 2.1 Project Definition: The known characteristics of the Project and sub-projects shall be described in general terms which will provide the participants a basic understanding of the Project and sub-projects.
 - 2.2 Project Goals: The schedule, budget, physical, technical and other objectives for the Project shall be defined.
 - 2.3 Project Strategy: A narrative description of the Project delivery methods which shall be utilized to accomplish the Project goals.

- 2.4 Project Work Plan: A matrix display of the Work to be performed by the Construction Manager, as well as the services and items to be furnished by the Design Professional and the Owner during each phase of the Project.
 - 2.5 Project Organization: A summary organization chart showing the interrelationships between the Owner, the Construction Manager and the Design Professional, and other supporting organizations and permitting review agencies. Detailed charts, one each for the Construction Manager and Design Professional, showing organizational elements participating in the Project shall be included.
 - 2.6 Responsibility Performance Chart: A detailed matrix showing the specific responsibilities and interrelationships of the Owner, the Design Professional, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the Project. The Construction Manager shall develop a similar chart for the personnel within its own organization who are assigned to the Project, as well as for the Design Professional's and Owner's personnel assigned to the Project from data supplied by them.
 - 2.7 Flow Diagrams: These charts shall display the flow of information and the decision process for the review and approval of shop drawings and submittals, progress, and change orders.
 - 2.8 Written Procedure: The Construction Manager will provide written procedures for communications and coordination required between the Construction Manager, Design Professional and Owner throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews, and other necessary communications
 - 2.9 Emergency Contact List: A complete list of the names, company affiliation and emergency contact phone numbers (both day and night) for all key Project personnel from Owner, Construction Manager and Design Professional, as well as from all subcontractors, subconsultants and suppliers of any of them. This list shall be continuously updated by Construction Manager throughout the Project duration, with Construction Manager distributing a copy of all updates to Owner and Design Professional.
3. This Policy and Procedure Manual shall be completed and submitted to the Design Professional and Owner for their review and Owner's approval as a

condition precedent to payment by Owner to Construction Manager for any services provided in the Construction Phase under this Contract.

4. This Policy and Procedure Manual is merely an amplification and clarification of this Contract. Any conflicts between the Policy and Procedure Manual and this Contract shall be governed by the latter.

B. Construction Manager shall provide the following Project Management Information System (“PMIS”), which system shall be in place for both the Pre-Construction Phase and Construction Phase services to be provided by Construction Manager pursuant to this Contract.

1. General:

- 1.1 Commencing immediately after the Notice to Proceed is issued to Construction Manager by Owner, the Construction Manager shall implement and shall utilize throughout the life of this Contract all subsystems of the PMIS.
- 1.2 The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the Work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions.
- 1.3 If requested by the Owner, the Construction Manager shall conduct a comprehensive workshop in Alachua County, Florida, for participants designated by the Owner and additional seminars as required by Owner to provide instruction with respect to the PMIS. This workshop and the seminars shall facilitate each participant’s and the Owner’s representatives’ use and understanding of the PMIS.
- 1.4 The PMIS shall be described in terms of the following major subsystems:
 - 1.4.1 Narrative Reporting;
 - 1.4.2. Schedule Control;
 - 1.4.3. Cost Control and Estimating;
 - 1.4.4. Project Accounting;
 - 1.4.5. Accounting and Payment; and
 - 1.4.6. Action Reports.
- 1.5 The above reports shall be submitted at least on a monthly basis and shall accompany each monthly Application for Payment.

2. Narrative Reporting Subsystem.

2.1. The Construction Manager shall prepare written reports as described hereunder. All reports shall be in 8 1/2" x 11" format.

2.2. The Narrative Reporting Subsystem shall include the following reports:

2.2.1. A Monthly Executive Summary which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including code violations found by any permitting authority.

2.2.2. A Monthly Cost Narrative describing the current construction cost estimate status of the Project.

2.2.3. A Monthly Scheduling Narrative summarizing the current status of the overall Master Project Schedule and an explanation of all variances from the plan. This report shall include an analysis of the various Project subschedules, a description of the critical path, and other analyses as necessary to compare planned performance with actual performance.

2.2.4. A Monthly Accounting Narrative describing the current cost and payment status for the entire Project. This report shall relate current encumbrances and expenditures to the budget allocations. An explanation for all variances shall be provided.

2.2.5. A Monthly Construction Progress Report during the Construction Phase summarizing the Work of the various subcontractors. This report shall include information from the weekly job site meetings as applicable such as general conditions, long lead supplies, current deliveries, safety and labor relations, programs, permits, construction problems and recommendations, and plans for the succeeding month.

2.2.6. A Daily Construction Diary during the Construction Phase describing events and conditions on the site.

2.2.7 Change orders, awarded P.O.'s and requests for information and clarification report.

2.2.8 Direct purchase program report.

2.2.9 Small Business Enterprise report.

2.2.10 Project photographs.

2.2.11 Quality and safety reports.

2.3. The Reports outlined in subparagraphs 2.2.1 through 2.2.5 above shall be bound with applicable computer schedule reports and submitted monthly during Design and Construction Phases and shall be current through the end of the preceding month. Copies shall be delivered to the Owner and the Design Professional. A bound copy of the complete diary shall be submitted to the Owner at the conclusion of the Project.

3. Schedule Control Subsystem.

3.1. Master Project Schedule: Prior to the submittal of its first application for payment, the Construction Manager shall submit to the Owner and Design Professional for their review and approval a Master Project Schedule covering the planning and design approvals, construction, and Owner occupancy of the Project. This schedule shall conform to the format outlined in Paragraph 3.4 below. This schedule shall serve as the framework for the subsequent development of all detailed schedules and shall be updated monthly by the Construction Manager throughout the Project. Within fifteen (15) calendar days of the Construction Manager's submittal, the Owner and the Design Professional shall review the schedule and provide the Construction Manager a written list of corrections needed to approve the schedule. The Construction Manager must make all corrections and resolve all comments within thirty (30) calendar days after its receipt of Owner's and Design Professional's comments. If the schedule is not approved within said thirty (30) calendar days, the Owner and Design Professional will withhold all Contract payments until the schedule is approved. The acceptance of the schedule by the Owner and Design Professional in no way attests to the validity of the assumptions, logic constraints, dependency relationships, resource allocations, manpower and equipment, and any other aspect of the proposed schedule. The Construction Manager is and shall remain solely responsible for the planning and execution of all Work in order to meet Project milestones or Contract completion dates.

- 3.2. Construction Schedule: The Construction Manager shall prepare and submit to the Owner and Design Professional, for their review and approval, a Construction Schedule. This schedule shall conform to the format outlined in Paragraph 3.4 below. The approved Construction Schedule shall be attached to the GMP Amendment. The Construction Schedule shall be integrated into the Master Project Schedule.
- 3.2.1. Following development and approval of the Construction Schedule as aforesaid, the Construction Manager shall, at the end of each calendar month occurring thereafter during the period of time required to finally complete the Project, or at such earlier intervals as circumstances may require, update and/or revise the Construction Schedule which shall be submitted to the Owner in duplicate. No additional compensation will be due the Construction Manager for making such updates. Failure of the Construction Manager to update, revise, and submit the Construction Schedule as aforesaid shall be sufficient grounds for the Owner to find the Construction Manager in substantial default hereunder and that sufficient cause exists to terminate the Contract or to withhold payment to the Construction Manager until a schedule or schedule update acceptable to the Owner is submitted.
- 3.3. The Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:
- 3.3.1. Pre-Bid Schedules (Subnetworks): The Construction Manager shall prepare a construction schedule for that portion of the Work encompassed in each bid package. The schedule shall be sufficiently detailed as to be suitable for inclusion in the bid package as a framework for subcontract completion by the successful bidder. It shall show the interrelationships between the Work of the successful bidder and that of other subcontractors, and shall establish milestones keyed to the Master Project Schedule.
- 3.3.2. Subcontractor Construction Schedules (Subnetworks): Upon the award of each subcontract, the Construction Manager shall jointly with the subcontractor, develop a schedule which is more detailed than the pre-bid schedule included in the bid packages, taking into account the Work

schedule of the other subcontractors. The subcontractor's construction schedule shall include as many activities as necessary to make the schedule an effective tool for construction planning and for monitoring the performance of the subcontractor. The subcontractor's construction schedule also shall show pertinent activities for material purchase orders, manpower supply, shop drawing schedules and material delivery schedules.

3.3.3. Occupancy Schedule: The Construction Manager shall jointly develop with the Design Professional and Owner a detailed plan, inclusive of punch lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Owner occupancy. The Occupancy Schedule shall be produced and updated monthly from its inception through final Owner occupancy and shall be integrated into the Master Project Schedule.

3.4. Schedule Format: The Master Project Schedule and the Construction Schedule shall be planned and recorded with a Critical Path Method (CPM) schedule in the form of an activity-on-node diagram. All activity-on-node diagrams shall include the Activity Identification, Activity Description, and the type of relationship between activities, including any lead or lag time, as well as being cost loaded. Further, both the Master Project Schedule and the Construction Schedule shall incorporate and be based upon the Project milestone dates set forth in Exhibit I to the Agreement.

3.4.1. No activity shall have a duration greater than fifteen (15) work days or less than one (1) work day. If requested by the Owner or Design Professional, the Construction Manager shall furnish any information needed to justify the reasonableness of activity durations. Such information shall include, but not be limited to, estimated activity manpower, anticipated quantities, and production rates.

3.4.2. Procurement shall be identified with at least two (2) activities: fabrication and delivery. Construction Manager shall insure that all Work activities that require a submittal are preceded by the appropriate submittal and approval activities.

- 3.4.3. Only contractual constraints shall be shown in the schedule logic. No other restraints are allowed unless approved in writing by the Owner or Design Professional. This disallowance of constraints includes the use of any mandatory start or finish dates selected by Construction Manager.
- 3.4.4. Activities shall be identified by codes to reflect the responsible party for the accomplishment of each activity (only one party per activity), the Phase/Stage of the Project for each activity, and the Area/Location of each activity
- 3.4.5. The construction time for the Work, or any milestone, shall not exceed the specified Contract Time. Logic or activity durations shall be revised in the event that any milestone or Contract completion date is exceeded in the schedule.
- 3.4.6. Float is defined as the amount of time between when an activity “can start” (the early start) and when an activity “must start” (the late start). It is understood by the Owner and the Construction Manager that float is a shared commodity, not for the exclusive use or financial benefit of either party. Either party has the full use of the float until it is depleted.
- 3.4.7. The CPM schedules must be compatible with Primavera “SURETRACK” Project Planner Software, version 5.0 or later, by Primavera Systems, Inc., Bala Cynwyd, PA. It is the Construction Manager’s responsibility to ascertain the software compatibility with the Owner or Design Professional.
- 3.4.8. Initial Schedule Submittal Requirements:
- 3.4.8.1. Predecessor/Successor Sort
 - 3.4.8.2. Total Float/Early Start Sort
 - 3.4.8.3. Responsibility/Early Start Sort
 - 3.4.8.4. Area/Early Start Sort
 - 3.4.8.5. Logic Diagram: Produce diagram with not more than 100 activities per ANSI D (24-inch x 36-inch) size sheet. Insure each sheet includes title, match data or diagram correlation, and key to identify all components used in the diagram.
 - 3.4.8.6. Narrative discussing general approach to completion of the Work.

3.4.8.7. Diskette in Primavera (P3) format.

3.4.9. Schedule Update Requirements: The Construction Manager shall update the schedules monthly to show actual, current progress. The schedule updates shall be submitted within seven (7) calendar days of the data dates. The updates shall include:

3.4.9.1. Dates of activities' actual starts and completions.

3.4.9.2. Percent of Work remaining for activities started but not completed as of the update date.

3.4.9.3. Narrative report including a listing of monthly progress, the activities that define the critical path and any changes to the path of critical activities from the previous update, sources of delay, any potential problems, requested logic changes, and Work planned for the next month.

3.4.9.4. Predecessor/Successor Sort

3.4.9.5. Total Float/Early Start Sort

3.4.9.6. Responsibility/Early Start Sort

3.4.9.7. Area/Early Start Sort

3.4.9.8. Diskette in the required Primavera format

3.4.9.9. Fragnet of logic diagram for all requested logic changes.

3.4.9.10. Updated logic diagram as required by the Owner. At a minimum, the Owner shall require a final logic diagram at the end of the Work showing the planned and actual starts and completions.

3.4.9.11. A bar chart comparison of the updated schedule to the initial schedule. This diagram shall show actual and planned performance dates for all completed activities.

3.4.9.12. All update information shall be an accurate representation of the actual Work progress.

3.5. Recovery Schedule: If the initial schedule or any current updates fail to reflect the Work's actual plan or method of operation, or a contractual milestone date is more than fifteen (15) days behind, the Owner may require that a recovery schedule for completion of the remaining Work be submitted. The Recovery Schedule must be submitted within seven (7) calendar days of the Owner's

request. The Recovery Schedule shall describe in detail the Construction Manager's plan to complete the remaining Work by the required Contract milestone date. The Recovery Schedule submitted shall meet the same requirements as the original Construction Schedule. The narrative submitted with the Recovery Schedule should describe in detail all changes that have been made to meet the Contract milestone dates.

3.6. Change Orders: When a Change Order is proposed, the Construction Manager must identify all logic changes as a result of the Change Order. The Construction Manager shall include, as part of each Change Order proposal, a sketch showing all schedule logic revisions, duration changes, and the relationships to other activities in the approved Construction Schedule. This sketch shall be known as the fragnet for the change. Upon acceptance of the fragnet, the Construction Manager will revise the Construction Schedule or current update. The logic changes required by the Change Order will be considered incidental to the Construction Manager's work. No separate payment will be made.

4. Cost Control Subsystem: The operation of this subsystem shall provide sufficient timely cost data and detail to permit the Construction Manager to control and adjust the Project requirements, needs, materials, equipment and systems by building and site elements so that the Work will be completed at a cost which, together with the Construction Management Fee, will not exceed the GMP. Requirements of this subsystem include submissions at the following phases of the Project:

4.1. Pre-Construction Phase Estimates; and

4.2. At establishment of the GMP.

5. Project Accounting Subsystem: This subsystem shall enable the Construction Manager to plan effectively and the Owner to monitor and control the funds available for the Project, cash flow, costs, Change Orders, Construction Change Directives, payments, and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, and amounts payable, and also enable the Owner to stay informed as to the overall Project status. All reports to be generated as part of this subsystem shall be consistent with the Project Funding Schedule (if any). This subsystem will be produced and updated monthly and includes the following reports:

5.1. Costs Status Report representing the budget, estimate, and base

commitment (awarded subcontracts and purchase orders) for any given subcontract or budget line item. It shall show approved Change Orders and Construction Change Directive for each subcontract which when added to the base commitment will become the total commitment. Pending Change Orders also will be shown to produce the total estimated probable cost to complete the Work.

- 5.2. A Payment Status Report showing the value in place (both current and cumulative), the amount invoiced (both current and cumulative), and the balance remaining. A summary of this report shall accompany each pay request.
- 5.3. A Detailed Status Report showing the complete activity history of each item in the Project accounting structure and includes an earned value graph. It shall include the budget, estimate, and base commitment figures for each subcontract. It shall give the Change Order history, including Change Order numbers, description, proposed and approved dollar amounts. It also shall show all pending or rejected Change Orders.
- 5.4. A Cash Flow Diagram showing the projected accumulation of cash payments against the Project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments.
- 5.5. A Job Ledger shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The job ledger will be used to provide construction cost accountability for general conditions work, on-site reimbursable expenses, and costs requiring accounting needs.

EXHIBIT C
FORM OF PAYMENT BOND

CONTRACTOR (PRINCIPAL)

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

SURETY

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

OWNER (OBLIGEE)

NAME: Alachua County Board of County Commissioners

PRINCIPAL BUSINESS ADDRESS: 12 S.E. First Street, Gainesville, Florida 32601

TELEPHONE NUMBER: 352-374-5204

CONTRACT DETAILS

DATE EXECUTED:

AMOUNT:

GENERAL DESCRIPTION:

STREET ADDRESS OF PROJECT:

PO #, RFP, OR BID #:

BOND

BOND NUMBER:

DATE:

AMOUNT:

KNOW ALL MEN BY THESE PRESENTS:

That Principal, hereinafter called Contractor, and Surety, as identified above, are bound to the Board of County Commissioners of Alachua County, Florida, as Obligee, hereinafter called the County, in the amount identified above, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

This payment bond is executed pursuant to section 255.05, F.S., and claimants must comply with the notice and time limitations of section 255.05(2). F.S.

WHEREAS, Contractor has by written agreement entered into a contract, identified above, with Alachua County, which contract documents are by reference made part hereof, and for the purposes of this Bond are hereafter referred to as the "Contract."

THE CONDITION OF THIS BOND is that if Contractor promptly makes payments to all persons defined in section 713.01, Florida Statutes, who furnish labor, materials and supplies used directly or indirectly by Contractor in the performance of the Contract; then CONTRACTOR'S OBLIGATION SHALL BE VOID; OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT.

The surety hereby waives notice of and agrees that any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect surety's obligation under this bond.

The provisions of this bond are subject to the time limitations of Section 255.05(2). In no event will the Surety be liable in the aggregate to claimants for more than the penal sum of this Payment Bond, regardless of the number of suits that may be filed by claimants.

Signed and sealed this _____ day of _____, 20_____.

CONTRACTOR (PRINCIPAL)

Signed, sealed and delivered
in the presence of:

Witnesses as to Contractor

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____,
200__, by _____, as _____ of

_____, a _____ corporation, on behalf of the
corporation. He/she is personally known to me **OR** has produced _____ as
identification.

Notary Public (Signature) _____

Printed Name _____ My Commission Expires: _____

(AFFIX NOTARY SEAL)

SURETY

SIGNATURE: _____

SEAL

PRINTED NAME AND TITLE: _____ ATTORNEY IN FACT _____

EXHIBIT D
FORM OF PERFORMANCE BOND

CONTRACTOR (PRINCIPAL)

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

SURETY

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

OWNER (OBLIGEE)

NAME: Alachua County Board of County Commissioners

PRINCIPAL BUSINESS ADDRESS: 12 S.E. First Street, Gainesville, Florida 32601

TELEPHONE NUMBER: 352-374-5204

CONTRACT DETAILS

DATE EXECUTED:

AMOUNT:

GENERAL DESCRIPTION:

STREET ADDRESS OF PROJECT:

PO #, RFP, OR BID #:

BOND

BOND NUMBER:

DATE:

AMOUNT:

KNOW ALL MEN BY THESE PRESENTS:

That Principal, hereinafter called Contractor, and Surety, as identified above, are bound to the Board of County Commissioners of Alachua County, Florida, as Obligee, hereinafter called the County, in the amount identified above, for the payment whereof Contractor and Surety bind themselves, their heirs,

executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into a contract, identified above, with County, which contract documents are by reference made a part hereof, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Contractor:

1. performs the Contract between Contractor and County, at the times and in the manner prescribed in the Contract; and
2. pays County all losses, damages, including liquidated damages and damages caused by delay, expenses, costs and attorneys fees including appellate proceedings, that County sustains as a result of default by Contractor under the Contract; and
3. performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract;

then THIS BOND IS VOID, OTHERWISE IT REMAINS IN FULL FORCE AND EFFECT.

Whenever Contractor shall be, and is declared by County to be, in default under the Contract, and County having performed County's obligations there under, the Surety may promptly remedy the default, or shall promptly:

1. complete the Contract in accordance with its terms and conditions; or
2. obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if County elects, upon determination by County and Surety jointly of the lowest responsible bidder, arrange for a contract between such Bidder and County, and make available as work progresses sufficient funds, paid to County, to pay the cost of completion and other costs and damages for which the Surety may be liable hereunder.

No right of action shall accrue on this bond to or for the use of any person or corporation other than County named herein.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other Work to be performed hereunder, or the specifications referred to therein shall in any way affect its obligations under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to Work or to the specifications.

This instrument shall be construed in all respects as a common law bond. It is expressly understood that the time provisions and statute of limitations under Section 255.05, Florida Statutes, shall not apply to this bond.

In no event will the Surety be liable in the aggregate to Obligee for more than the penal sum of this Performance Bond regardless of the number of suits that may be filed by Obligee.

Signed and sealed this _____ day of _____, 20_____.

CONTRACTOR (PRINCIPAL)

Signed, sealed and delivered
in the presence of:

Witnesses as to Contractor

By: _____

Name: _____

Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification.

Notary Public (Signature) _____

Printed Name _____ My Commission Expires: _____

(AFFIX NOTARY SEAL)

SURETY

SIGNATURE: _____

SEAL

PRINTED NAME AND TITLE: _____ ATTORNEY IN FACT _____

EXHIBIT E

INSURANCE REQUIREMENTS TYPE "A" INSURANCE REQUIREMENTS "ARTISAN CONTRACTORS / SERVICE CONTACTS"

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors.

I. COMMERCIAL GENERAL LIABILITY.

Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 General Aggregate, \$1,000,000 Products / Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury Liability, \$1,000,000 each Occurrence, \$50,000 Fire Damage Liability and \$5,000 Medical Expense.

II. AUTOMOBILE LIABILITY.

Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$1,000,000 combined single limit each accident.

III. WORKERS COMPENSATION AND EMPLOYER'S LIABILITY.

- A Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act.
- B Employer's Liability limits for not less then \$100,000 each accident; \$500,000 disease policy limit and \$100,000 disease each employee must be included.

IV. BUILDER'S RISK / INSTALLATION FLOATERS.

- A When this contract or agreement includes the construction of and/or the addition to a permanent structure or building; including the installation of machinery and/or equipment, the following insurance coverage must be afforded:
- B Coverage Form: Completed Value, All Risk in an amount equal to 100% of the value upon completion or value of equipment to be installed.
- C When applicable: Waiver of Occupancy Clause or Cessation of Insurance clause. Flood Insurance as available under the National Flood

Insurance Program.

OTHER INSURANCE PROVISIONS.

The policies are to contain, or be endorsed to contain, the following provisions:

D Commercial General Liability and Automobile Liability Coverages

- 1 The Alachua County Board of County Commissioners, its officials, employees and volunteers are to be covered as an Additional Insured as respects: Liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.
- 2 The Contractor's insurance coverage shall be considered primary insurance as respects the County, its officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officials, employee's or volunteers shall be excess of Contractor's insurance and shall be non-contributory.

E Workers' Compensation and Employers' Liability Coverages

- 1 The insurer shall agree to waive all rights of subrogation against the County, for losses arising from work performed by the Contractor for the County.

F All Coverages

- 1 The Contractor shall provide a Certificate of Insurance to the County with a Thirty (30) day notice of cancellation. The certificate shall indicate if cover is provided under a "claims made" or "per occurrence" form. If any cover is provided under a claims made form the certificate will show a retroactive date, which should be the same date of the contract (original if contract is renewed) or prior.

V. SUBCONTRACTORS.

Contractors shall include all subcontractors as insured under its policies. All subcontractors shall be subject to the requirements stated herein.

CERTIFICATE HOLDER: Alachua County Board of County Commissioners

MAIL or FAX CERTIFICATES TO:

**Ebix
212 Kent Street
PO Box 257
Portland, MI 48875**

Ph. 517-647-1700
Fax 517-647-7900

EXHIBIT F

RELEASE AND AFFIDAVIT

STATE OF FLORIDA)
COUNTY OF _____)

Before me, the undersigned authority, personally appeared _____,
who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$_____ paid, _____ ("Construction Manager") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims demands, damages, costs and expenses, whether in contract or in tort, against The County Commissioners of Alachua County, Florida, a body corporate existing under the laws of the State of Florida ("Owner") relating in any way to the performance of the Agreement between Construction Manager and Owner, dated _____, 200__, for the period from _____ to _____.

(2) Construction Manager certifies for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which Owner might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(3) Construction Manager agrees to indemnify, defend and save harmless Owner from all demands or suits, actions, claims of liens or other charges filed or asserted against Owner arising out of the performance by Construction Manager of the Work covered by this Release and Affidavit.

(4) Construction Manager certifies that it has paid all its subcontractors and materialmen in full all amounts owed them from any previous payments received by Construction Manager from Owner and has not withheld any such amounts. In the event Construction Manager withholds any unpaid amounts due to its subcontractors and/or materialmen from the payment it receives from Owner with respect to the Application for Payment referenced in paragraph 5 below, Construction Manager agrees to immediately refund all such unpaid amounts to Owner.

(5) This Release and Affidavit is given in connection with Construction Manager's [monthly/final] Application for Payment No._____.

Construction Manager:

By: _____
Its: _____

President

Witnesses

Date:_____

[Corporate Seal]

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/She is personally known to me or has produced a _____
_____ (state) driver's license no. _____ as identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

Notary Public (Signature)

(Printed Name)

(Title or Rank)

(Serial Number, if any)

EXHIBIT G

CONSTRUCTION MANAGER APPLICATION FOR PAYMENT

I

Construction Manager (Name and Address):

Architect-Engineer Job No: _____

Contract Time (Calendar Days): _____

Time Elapsed to Date: _____

Request No: _____

For Period Ending: _____

Project Name: _____

State Project: _____

Federal Project No: _____

	<u>ADDITIONS \$</u>	<u>DEDUCTIONS \$</u>
Change Orders approved in previous months by Owner -- TOTAL	_____	_____
Subsequent Change Orders		
Number Approved (Date)	_____	_____
TOTALS	_____	_____
Net change by Change Orders \$	_____	THIS CERTIFICATE

Original Contract Sum.....	\$ _____
Change Orders (Net).....	\$ _____
Contract Sum To Date	\$ _____
Balance To Finish	\$ _____
Completed To Date	\$ _____
Materials Stored	\$ _____
Total Completed & Stored	\$ _____
Less Retainage ____ %	\$ _____
Add Back Retained Amount Covered By Securities	\$ _____
TOTAL	\$ _____
Less Previous Certificates	\$ _____
Less Materials Purchased Directly By Owner:	\$ _____
	\$ _____

SHOW INDIVIDUAL SBE PAYMENTS SEPARATELY ON
SCHEDULE OF VALUES AND TOTAL ON THIS LINE

TOTAL AMOUNT PAID THIS CERTIFICATE
TO SBE SUBCONTRACTORS \$ _____

CERTIFICATION BY THE CONSTRUCTION MANAGER: According to the best of my knowledge and belief, I certify that all items and amounts shown on the face of this Application are correct, that all work has been performed and material supplied in full accordance with the terms and conditions of the Contract, and that all materialmen, laborers and subcontractors, as defined in Chapter 713.01, Florida Statutes, have been paid the amounts due them out of any previous payments made to the Construction Manager by the Owner. Further, I agree to promptly pay each materialmen, laborer and subcontractor, as defined in Chapter 713.01, Florida Statutes, upon receipt of payment from the Owner, out of the amount paid to me on, account of such materialman's laborer's or subcontractor's work, the amount to which said

materialman, laborer and subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to myself on account of such materialman's, laborer's and subcontractor's work.

CONSTRUCTION MANAGER: _____

By: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this (date), by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced (type of identification) as identification.

(Signature of person taking acknowledgement)

(Name typed printed or stamped)

(Title or Vendor)

(Serial number, if any)

CERTIFICATION BY THE ARCHITECT- ENGINEER: I certify that I have checked and verified this Progress Payment Application; that to the best of my knowledge and belief, the above application is a true statement of the value of the work performed and the materials suitable stored on the site; that all work and materials included in this Certificate have been inspected by me or by my authorized assistants; that all work has been performed and material supplied in full accordance with the terms of this Contract; and I approved for payment the amount noted above.

REVIEWED AND RECOMMENDED FOR PAYMENT:

Architect-Engineer

Date: _____

APPROVED FOR SERVICES, PERFORMED AS STATED BY:

Owner's Owner's Representative

Date: _____

EXHIBIT H

CHANGE ORDER

CHANGE ORDER NO. _____

CONTRACT NO. _____

TO: _____

DATE: _____

PROJECT NAME: _____

PROJECT NO.: _____

Under our AGREEMENT dated _____, 200__.

You hereby are authorized and directed to make the following change(s) in
accordance with terms and conditions of

the Agreement:

For the (Additive) (Deductive) Sum of: _____
(\$_____).

Original Agreement Amount \$ _____

Sum of Previous Changes \$ _____

This Change Order (Add) (Deduct) \$ _____

Present Agreement Amount \$ _____

The time for completion shall be (increased/decreased) by _____ calendar days
due to this Change Order. Accordingly, the Contract Time is now _____ (_____)
calendar days and the Substantial Completion date is _____. Your acceptance of this
Change Order shall constitute a modification to our Agreement and will be performed subject to
all the same terms and conditions as contained in our Agreement indicated above, as fully as if
the same were repeated in this acceptance. The adjustment, if any, to the Agreement shall

constitute a full and final settlement of any and all claims arising out of or related to the change set forth herein, including claims for impact and delay costs.

DATE SUBMITTED: _____

Construction Manager:

By: _____

DESIGN PROFESSIONAL:

By: _____

Date: _____

OWNER:

The County Commissioners of Alachua County, Florida

By: _____

Accepted: _____, 20____

Approved as to Form

Alachua County Attorney

EXHIBIT I

MASTER PROJECT SCHEDULE MILESTONES

EXHIBIT J

CONSTRUCTION MANAGER'S STAFFING SCHEDULE

I. Pre-Construction Phase Services:

<u>Name</u>	<u>Title/Position</u>	<u>Company Affiliation</u>	<u>% Assigned to Project</u>
-------------	-----------------------	----------------------------	----------------------------------

II Construction Phase Services:

<u>Name</u>	<u>Title/Position</u>	<u>Company Affiliation</u>	<u>% Assigned to Project</u>
-------------	-----------------------	----------------------------	----------------------------------

EXHIBIT K

**GMP AMENDMENT TO AGREEMENT BETWEEN
OWNER AND CONSTRUCTION MANAGER**

**AMENDMENT NO. 1 TO AGREEMENT BETWEEN OWNER
AND CONSTRUCTION MANAGER FOR _____
AGREEMENT NO. _____**

Pursuant to Sections 4B and 7A of the Agreement, dated _____, between The County Commissioners of Alachua County, Florida (“Owner”) and _____ (“Construction Manager”), with respect to the construction of the Owner’s _____ (“Project”), the Owner and Construction Manager hereby agree to amend and modify the Agreement by this Amendment and establish a Guaranteed Maximum Price and Contract Time for all the Work as set forth below:

ARTICLE 1

SCOPE OF WORK

The scope of the Work consists of the construction of a _____, in accordance with the Agreement, this Amendment and the other Contract Documents listed as Attachments 1 through ____ below, which are hereby incorporated into and made a part of the Amendment by this reference:

<u>Attachment No.</u>	<u>Description</u>	<u>Pages</u>	<u>Date</u>
1. _____	List of Drawings and Specifications	____ through ____	
2. _____	Allowance	____ through ____	
3. _____	Assumptions and Clarifications	____ through ____	
4. _____	Completion Schedule	____ through ____	

5. _____ Schedule of Value _____ through _____
6. _____ List of Itemized General Conditions _____ through _____
7. _____ List of Subcontractors and
Major Suppliers
_____ through _____

ARTICLE 2

GUARANTEED MAXIMUM PRICE

2.1 Construction Manager's Guaranteed Maximum Price ("GMP") for the Work, including the estimated Cost of the Work as defined in Section 5 of the Agreement and Construction Manager's Fee as defined in Section 4 of the Agreement, is _____ (\$_____).

2.2 The GMP includes material that may be purchased directly by the Owner ("Owner Direct Purchases"). The estimated value of materials that may be purchased directly by the Owner is _____ (\$_____). Construction Manager will initially process one (1) deductive Change Order under this Agreement for the entire estimated amount of Owner Direct Purchases, inclusive of sales taxes. Prior to final payment, a final reconciliation of the Owner Direct Purchases against the GMP will be performed and such deductive Change Order will be prepared for the Owner's review and execution.

2.3 The Construction Manager's Fee for the entire Work anticipated on this Project is hereby established as a lump sum amount of _____ (\$_____), said lump sum amount is included within the above noted GMP.

2.4 The General Condition expenses for the entire Work anticipated on this Project are hereby established as a lump sum amount of _____ (\$_____), said lump sum amount is included within the above noted GMP. The items included as General Condition expenses are listed in the List of Itemized General Conditions attached hereto and incorporated herein as Attachment No. _____. Except as said lump sum amount for General Condition expenses may be expressly adjusted by Change Order or Construction Change Directive, Construction Manager acknowledges and agrees that Owner shall have no liability for any General Condition expenses beyond payment of the above noted lump sum amount and Construction Manager agrees that it shall not be

entitled to receive any additional compensation from Owner for the General Conditions beyond the above lump sum amount.

2.5 Monthly installment payment of the Construction Manager's Fee and the General Condition expenses shall be based upon the percent completion of the designated portion of the Work for each particular month.

2.6 In order to efficiently and timely address any unknown or unanticipated conditions that are within the scope of the required Work and are otherwise reimbursable without duplication as a Cost of the Work, but excluding all items that are to be reimbursed under the lump sum General Condition expense amount noted in paragraph 2.4 above, the parties have agreed to establish a contingency within the GMP in an amount not-to-exceed amount of _____ (\$_____). Contingency funds shall be used to cover costs that may result from incomplete design and unanticipated costs that arise during construction that are not identified by the construction documents. Construction Manager shall not proceed with any portion of the Work which it intends to charge against this contingency without first obtaining Owner's express written authorization to proceed. The Construction Manager acknowledges and agrees that any work which is to be charged against the contingency allowance that does not receive such prior written approval from the Owner shall be deemed to be part of Construction Manager's basic Work compensated within the GMP and not chargeable against the Owner's Contingency Allowance. The Owner reserves the right, at its sole discretion, to withhold its consent on contingency expenditures. Further, any contingency expenditures become part of the Contract Documents and are incorporated by reference herein. Unused contingency remaining at the end of the job will be credited from the guaranteed maximum price. Construction Manager has no entitlement to any portion of any unused contingency.

2.7 The parties have agreed to establish an allowance within the GMP for _____ in the amount of _____ (\$_____). Construction Manager shall not proceed with any portion of the Work associated with the aforesaid allowance ("Allowance Work") without first obtaining Owner's express written authorization to proceed with said Allowance Work. Allowance Amounts are reflected in Attachments _____ through _____.

2.8 Pursuant to Exhibit A, Paragraph 12.4 of the Agreement, if at the time final payment is made to Construction Manager the total Cost of the Work has been increased by approved Change Orders in an amount causing the original GMP as set forth in this Amendment to be exceeded by more than _____ (\$_____), then Construction Manager shall be entitled to an increase in the Construction Manager's Fee in the amount of _____ (_____%) of the amount exceeding the sum of _____ (\$_____) plus that original GMP amount.

2.9 Construction Manager recognizes that this Contract includes work for trench excavation in excess of five feet deep. Construction Manager acknowledges the

requirements set forth in Section 553.63 of the Florida Statutes titled Trench Safety Act. Construction Manager certifies that the required trench safety standards will be in effect during the period of construction of the Project and Construction Manager agrees to comply with all such required trench safety standards.

2.9.1 The amount of _____ dollars (\$_____) has been separately identified for the cost of compliance with the required trench safety standards; said amount is included within the GMP.

2.10 Construction Manager is responsible, without reimbursement from Owner, for re-inspection fees and costs; to the extent such re-inspections are due to the fault or neglect of Construction Manager.

ARTICLE 3

CONTRACT TIME AND DAMAGES

3.1 The Construction Phase Commencement Date for the Work is _____. The total period of time beginning with the Construction Phase Commencement Date through the date required for Substantial Completion of the Work is _____ (_____) days ("Contract Time"). THE SUBSTANTIAL COMPLETION DATE IS THEREFORE ESTABLISHED AS _____.

3.2 Should Construction Manager fail to substantially complete the Work within the required time period, Owner shall be entitled to assess, as liquidated damages, but not as a penalty, \$_____ for each calendar day thereafter until Substantial Completion is achieved. Should Construction Manager fail to finally complete the Work within the required time period, Owner shall be entitled to assess, as liquidated damages, but not as a penalty, \$_____ for each calendar day thereafter until Final Completion is achieved. The liquidated damage rate established shall be assessed for each calendar day Construction Manager fails to achieve Substantial Completion or Final Completion for the Designated Work within the Contract Time.

3.3 If the Work is delayed due to the fault or neglect of Owner or anyone for whom the Owner is liable, and such delays have a cumulative total of more than twenty-one (21) calendar days, Construction Manager may make a claim for its actual and direct delay damages accruing after said twenty-one (21) calendar days. Provided, however, Construction Manager expressly acknowledges and agrees that its actual and direct delay damages shall not exceed \$_____ per calendar day. In no event shall Owner be liable to Construction Manager whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any

acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.

ARTICLE 4

MISCELLANEOUS

4.1 Except as expressly modified herein, the terms and conditions of the Agreement remain unchanged. In the event of a conflict between the terms of this Amendment and those of the Agreement, Owner and Construction Manager agree that the terms of this Amendment shall prevail and control.

OWNER

Construction Manager

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

Attest:

Attest: _____

By/Title _____

J. K. Irby, Clerk
(SEAL)

Approved as to Form

Alachua County Attorney

Attachment 1

List of Drawings, Specifications, and Addendums

See Attached

Attachment 2
Schedule of Values

See Attached

Attachment 3
Itemized General Condition Expenses

See Attached

Attachment 4
List of Alternates

Attachment 5
Assumptions and Clarifications

See Attached

Attachment 6
Completion Schedule

See Attached

Attachment 7
List of Sub-Contractors and Major Suppliers

See Attached

EXHIBIT L

TRUTH-IN-NEGOTIATION CERTIFICATE

In compliance with the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, «**Company**» hereby certifies that wage rates and other factual unit costs supporting the compensation for the construction management services of CONSTRUCTION MANAGER to be provided under this Agreement, concerning «**Project**» are accurate, complete and current as of the time of contracting.

CONSTRUCTION MANAGER:

«COMPANY»

By: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT M

**SUBCONTRACTOR/MATERIALMAN
WAIVER & RELEASE OF LIEN**

PARTIAL _____
FINAL _____

OWNER:

CM or CONTRACTOR: _____

PROJECT # _____

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, _____ (The CM or Contractor) has been engaged by _____ (The Owner), to provide labor and/or materials as described in said contract in connection with the construction of the project described above, and _____ (The Subcontractor or Materialman) has been engaged by _____ (The CM or Contractor) to assist.

THE UNDERSIGNED lienor, in consideration of a final payment made in the amount of \$ _____, hereby waives and releases its lien and right to claim a lien for labor, services, or materials furnished to _____ (Owner) on the job of _____ to the following described property: _____.

THE UNDERSIGNED further warrants and represents that any and all valid labor, material, equipment, fringe benefits, taxes and other bills, now due and payable on the properly described above on behalf of the undersigned, have been paid in full to date of this Waiver for application _____ dated _____, a copy of which is attached hereto.

DATE: _____

(Subcontractor or Materialman)

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this _____ day of _____ (year), by (name of person) as (type of authority, . . . e.g. officer, trustee, attorney in fact) for (name of party on behalf of whom instrument was executed) .

(Signature of Notary Public -- State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known OR Produced Identification
Type of Identification Produced