



## REAL ESTATE DEVELOPMENT AND MANAGEMENT AGREEMENT BETWEEN OWNER AND ARCHITECT-ENGINEER

STATE CONTRACT NO.:           «PROJNUM»

RFQ NO:                       «RFQ\_NO»

STATE FLAIR CODE:           «SAMAS»

FLAIR CONTRACT ID NUMBER:

DMS CONTINUING  
CONTRACT IDENTIFIER:       N/A

NAME AND LOCATION:       «PROJNAME»  
                                  «PROJADDRESS»  
                                  «PROJLOCATION»

ARCHITECT-ENGINEER:       «AE\_Name»  
                                  «AE\_Address»  
                                  «AE\_City»  
                                  «PHONE»

CONSTRUCTION MANAGER:   «CONTRNAME»  
                                  «CONTRSTREET»  
                                  «CONTRADD»  
                                  «PHONE2»

Ron DeSantis  
Governor

Pedro Allende  
Secretary

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For a complete list of forms, please visit:

[https://www.dms.myflorida.com/business\\_operations/real\\_estate\\_development\\_and\\_management/building\\_construction/forms\\_and\\_documents](https://www.dms.myflorida.com/business_operations/real_estate_development_and_management/building_construction/forms_and_documents)

# AGREEMENT BETWEEN OWNER AND ARCHITECT-ENGINEER

This Agreement, effective on the last date signed by the Parties, is by and between the State of Florida, Department of Management Services, Division of Real Estate Development and Management, ("Owner"), and

«AE\_NAME», A FLORIDA CORPORATION  
«AE\_ADDRESS»  
«AE\_CITY»  
«PHONE»  
FEDERAL I.D. TAX NO.: «FEID»

hereinafter referred to as the Architect-Engineer. Owner and Architect-Engineer may be referred to herein individually as a "Party" or collectively as the "Parties."

Now therefore, the Owner and the Architect-Engineer agree as follows:

## ARTICLE 1 THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT

1.1 The Architect-Engineer accepts the relationship of trust and confidence established between the Architect-Engineer and the Owner by this Agreement. The Architect-Engineer covenants with the Owner to furnish its best skill and judgment and to cooperate with the Client Agency and the Construction Manager in furthering the interests of the Owner. The Architect-Engineer agrees to provide professional services and to use its best efforts to complete the project in the best and soundest way and in the most expeditious and economical manner consistent with the interest of the Owner.

1.2 The Construction Team – The Construction Manager, the Owner, the Client Agency, and the Architect-Engineer, called the "Construction Team", shall work from the beginning of planning through final construction completion and shall be available thereafter should additional services be required. The Architect-Engineer will provide leadership during the design phase, with support from the Construction Manager, and the Construction Manager shall provide leadership to the Construction Team on all matters relating to construction.

The specific representatives of the Construction Team are shown in the attached Exhibit A, which by reference and attachment hereto forms a part of this Agreement.

1.3 Extent of Agreement – This Agreement for professional services for Project Number «PROJNUM» entitled «PROJNAME», «ProjLocation», represents the entire Agreement between the Owner and the Architect-Engineer. This Agreement shall not be superseded by any provisions of the documents for construction and may be amended only by written instrument signed by both the Owner and the Architect-Engineer. It is expected by both parties that this Agreement shall be in full force from the date of execution through one year after the final invoice has been paid.

1.4 Definitions:

- Project – The Project is the total work to be performed under this Agreement. The Project consists of all planning, design, permitting, construction services, code inspections, and associated site work necessary to fully complete "Project «ProjNum», «ProjName», «ProjLocation», «ProjCityState»," as contemplated in the Owner's Construction Budget.
- Owner – The State of Florida, Department of Management Services, Division of Real Estate Development and Management, acting through its Secretary or those persons designated to act on behalf of the Secretary, as Agent for the «CLIENT\_AGENCY» pursuant to the Client Agency Agreement between the «CLIENT\_AGENCY» and the Department of Management Services. The entity that will occupy, use, and own the project upon substantial completion is the «Ownerentity». The funds with which the compensation for work performed in connection with the Project will be paid are under the control of the «Ownerentity», based on approval of each payment by Real Estate Development and Management. All duties of Owner hereinafter shall be performed by the Division of Real Estate Development and Management.
- Construction Manager – The Contractor responsible for construction of the Project. The Construction

Manager shall be the single point of interface for all trade bidders and contractors for the duration of the Project. The Construction Manager may also be referred to as the “Contractor.”

- Architect-Engineer – «AEName»  
Address: «AE\_Address»  
«AECityStateZip»  
Telephone: «AEPhone».
- Project Manager – The person designated by the Owner to provide direct interface with the Architect-Engineer with respect to the Owner’s responsibilities.
- Owner's Representatives – The Contracts Administrator or Project Manager, and their superiors or designees.
- Client Agency – The State Agency who will occupy and utilize the completed project.
- Bid Groups – If applicable, the Construction Team may agree to bid part(s) of the project separately from the rest of the Project. This defined is as a Bid Group(s).
- Construction Authorization – The term Authorization shall mean a written work order based on a defined scope of work prepared and issued by the Project Manager. Authorizations shall be used prior to the date of the Guaranteed Maximum Price Amendment and all work performed pursuant to Authorizations shall be included in the Guaranteed Maximum Price.
- Construction Documents – The Construction Documents are prepared by the Architect-Engineer utilizing the approved Design Development Documents. The Construction Documents consist of the working drawings and specifications and set forth in detail the work required for the architectural, civil, structural, mechanical, electrical service-connected equipment, and civil/sitework, and the necessary bidding information. The Architect-Engineer shall submit the Construction Documents to the Owner who will supply the Construction Documents to the Construction Manager. Any changes to the Construction Documents by the Construction Manager, the Architect-Engineer, or the Owner will be shared with the other parties.
- Permitting Authority – The local authority with jurisdiction over the area in which the Project is located.
- Change Order – The Owner, without invalidating this Agreement, may order changes in the Project within the general scope of this Agreement consisting of additions, deletions, or other revisions, the Guaranteed Maximum Price, and the Final Completion Date, being adjusted accordingly. All changes in the Project not covered by an authorized contingency shall be authorized by Change Order signed by the Owner before the change is implemented.
- Estimate of Probable Project Construction Cost – The Architect/Engineer’s estimate of the probable construction cost of the Project based on area, volume unit pricing, or similar conceptual estimating techniques.
- Contract Sum – For Projects utilizing a Construction Manager, the total sum of items in Article 8 and Article 9 of the Agreement between the Owner and the Construction Manager. For lump sum bid Projects, the amount stated in the Agreement, which is the total amount payable by the Owner to the Contractor for completing the Project. The Contract Sum may be modified by Change Order(s).
- Certificate of Payment – Attached as Exhibit H titled “Owner’s Certificate of Partial Payment” which by reference and attachment hereto forms a part of this Agreement. See Articles 3.7.1 (7) and 3.7.1 (8) for the Architect/Engineer’s responsibilities.
- Contract Time – The time established in Article 6 of the Agreement between the Owner and the Construction Manager, from the date of the Notice to Mobilize on Site and Proceed with Construction until Substantial Completion of the Project.
- Substantial Completion - Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. Additionally, for

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

- The Work is complete in accordance with the Construction Documents to the extent required for Owner to obtain a Certificate of Occupancy and such certificate has actually been granted by the appropriate government authorities, provided that a failure to obtain the Certificate of Occupancy due to causes for which the Contractor is not responsible shall not be grounds to deny Substantial Completion status;
  - All HVAC systems included in the Work are properly functioning in accordance with the Construction Documents and verified by the Test and Balance Report which shall have been delivered to the Architect and Owner;
  - All life safety systems included in the Work are functioning in accordance with the Construction Documents;
  - A certificate of Substantial Completion has been issued by the Architect-Engineer;
  - All operating and maintenance manuals and training shall have been delivered to the Architect-Engineer and Owner; and
  - All commissioned systems included in the Work are properly functioning in accordance with the Construction Documents and verified by the commissioning report delivered to the Owner provided that a failure of the Owner's commissioning agent for which the Construction Manager is not responsible shall not be grounds to deny substantial Completion status.
- Final Completion – The time when all the items listed from the Substantial Completion inspection by the Construction Team and all permitting authorities having jurisdiction have been completed and all the items listed on Exhibit K – Final Pay Request Checklist have been completed and submitted to the Owner for review and acceptance.

- 1.5 Owner's Construction Budget – Owner's funds budgeted and requested for construction of the Project. The Owner's Construction Budget, includes all Construction Manager's management fees, costs of the work, and the Owner's and Construction Manager's construction and interface contingencies. The Owner's Construction Budget does not include the Architect-Engineer's fees, Owner's contingency, furnishings and equipment, and other Owner's costs. The Owner's Construction Budget is **\$«Rev4 BUDGET».00.**
- 1.6 Architect-Engineer's Personnel – The Architect-Engineer's key personnel shall be shown in the attached Exhibit A. The Architect-Engineer shall not deviate from these key personnel without first obtaining the written consent of the Owner.

## **ARTICLE 2 COMPENSATION**

The Owner agrees to pay the Architect-Engineer as compensation for services:

- 2.1 The Architect-Engineer's Basic Services prescribed in Article 3, Sections 3.1 through 3.7.1 (18) hereinafter, the lump sum amount of **\$«Rev4 BASIC SERVICES»00.** to be paid as prescribed in Article 9.1 hereinafter.
- 2.2 Additional Services, as defined in Article 4 hereinafter, are to be paid as a lump sum as prescribed in the Authorization. For Additional Services authorized at this time, the total amount **\$«Rev4 ADDIT SERVICES»** to be paid is described in Exhibit D.
- 2.3 For Additional Services to be paid as a multiple of Actual Payroll Costs, the multiple of **«MULTIPLIER»** shall be applied to the Actual Payroll Costs for those Additional Services, as defined in Article 4 hereinafter. Actual Payroll Costs shall be defined as the cost of salaries or wages paid directly to personnel engaged on the Project. The multiples being applied to the Actual Payroll Costs cover overhead, profit, and fringe benefits such as, but not limited to, social security contributions, unemployment taxes, excise taxes, payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation, and holiday pay. The Overhead, Profit, and Fringe Benefit Multiplier for Firms not listed below will be approved by the Owner's Project Manager when authorizing additional services required for the project.
- 2.4 Reimbursable Expenses without markup as defined in Article 8 hereinafter, not exceeding the limits of Section 112.061, Florida Statutes.
- 2.5 The total cost of the project including the Architect-Engineer's Basic Services and Additional Services shall not exceed the total amount of **\$«Rev4AE TOTAL BUDGET»00.**

**ARTICLE 3**  
**ARCHITECT-ENGINEER'S BASIC SERVICES**

- 3.1 The Architect-Engineer agrees to provide professional Basic Services for the Project as hereinafter set forth, unless otherwise set forth in writing by Owner's Contracts Administrator in an Amendment to the Agreement and agreed to by both Parties.
- 3.2 **Conceptual Schematic Design Phase**
- (1) The Architect-Engineer shall prepare from the approved Programming Phase, the Conceptual Schematic Design for all components as necessary to achieve a solution acceptable to the Owner. The Conceptual Schematic Design shall consist of sketches, concepts, organization, orientation, relationship to existing and future facilities, energy conservation approaches, and equipment parameters necessary to clearly define the general scope and direction of the project.
  - (2) When a Construction Manager has been engaged by the Owner, the Architect-Engineer shall coordinate the development with the Construction Manager and provide the Owner with a review and comment of the Construction Manager's estimates.
  - (3) The Architect-Engineer shall provide and distribute (N/A) hard (paper) copies and one (1) electronic copy of the Conceptual Schematic Design documents for review and comment as directed by the Project Manager.
  - (4) The Architect-Engineer shall coordinate the development of the design documents with the Construction Manager, if a Construction Manager is retained during the design phase, provide input and suggestions on costs savings and buildability, and provide to the Owner review and comment of the Construction Manager's estimates.
- 3.3 **Advanced Schematic Design Development Phase**
- (1) The Architect-Engineer shall prepare, utilizing an approved Program or the approved Conceptual Design, the Advanced Schematic Design for all components as necessary to achieve a solution acceptable to the Owner. The Advanced Schematic Design shall consist of sketches, concepts, organization, orientation, relationship to existing and future facilities, energy conservation approaches, and equipment parameters necessary to clearly define the general scope and direction of the project. The Advanced Schematic Design will also consist of plans, sections, elevations, outline specifications, and other details necessary to fully describe the design intent. The Architect/Engineer will submit an Estimate of Probable Project Construction Cost to the Owner for review.
  - (2) When a Construction Manager has been engaged by the Owner, the Architect-Engineer shall coordinate the development with the Construction Manager and provide the Owner with a review and comment of the Construction Manager's estimate.
  - (3) The Architect-Engineer shall provide (N/A) hard copy and one (1) electronic copy of the Advanced Schematic Design documents for review and comment as directed by the Project Manager.
- 3.4 **Design Development Documents Phase**
- (1) The Architect-Engineer shall prepare, using the approved Advanced Schematic Design documents, the Design Development Documents consisting of plans, elevations, and other drawings, including perspective sketches and outline specifications to fix and illustrate the size and character of the entire project in its essentials as to kinds of materials, type of structure, mechanical, electrical systems, civil and sitework, and such other work as may be required. The data included shall be sufficient to firmly fix the scope of the project.
  - (2) The Architect-Engineer shall coordinate the development with the Construction Manager and provide the Owner with a review and comments of the Construction Manager's estimates for a Guaranteed Maximum Price.
  - (3) The Architect-Engineer shall provide and distribute (N/A) paper copies and ( ) electronic copy of the Design Development Documents for review and comment as directed by the Project Manager. The Architect/Engineer will submit an Estimate of Probable Project Construction Cost to the Owner for

review.

### 3.5 Construction Documents Phase

- (1) The Architect-Engineer shall prepare, using the approved Design Development Documents, Construction Documents consisting of drawings and specifications and setting forth the work in detail. The Architect/Engineer will submit an Estimate of Probable Project Construction Cost to the Owner for review.
- (2) The Construction Documents shall be prepared in Bid Group(s) for specific work as designated by the Construction Manager and with the agreement of the Construction Team.
- (3) When a Construction Manager has been engaged by the Owner, the Construction Manager shall prepare the non-technical documents including, but not limited to the documents needed to obtain bids, General Conditions of the Contract, Supplementary General Conditions of the Contract, and other documents as detailed in Agreement between the Construction Manager and the Owner. The Architect-Engineer shall review and provide the Owner with comments on any such documents as requested by the Project Manager.

For bid projects, the Architect-Engineer shall prepare the non-technical documents consisting of the necessary bidding information, General Conditions of the Contract, Supplementary General Conditions of the Contract, Division One of the Specifications, Proposal, and Contract form shall be prepared by the Construction Manager. The Architect-Engineer shall review and provide the Owner with comments on these documents.

- (4) For review purposes, the Architect-Engineer shall provide and distribute (N/A) (paper) copies and \_\_\_\_ (\_\_) electronic copy of the Construction Documents for each Bid Group for review and comment, including the non-technical documents, as directed by the Project Manager.
- (5) The Architect-Engineer shall cooperate in the development of each bid group with the Construction Manager and provide the Owner with a review and comments on the Construction Manager's pre-bid estimate of each bid group package.
- (6) For construction and upon approval by the Project Manager of the Construction Documents, the Architect-Engineer shall furnish to the Construction Manager a minimum of (N/A) sets of signed and sealed construction documents to obtain the building permit.
- (7) When the Guaranteed Maximum Price (GMP) is established, the Architect-Engineer will provide the Owner with (N/A) copies of the GMP documents, which shall be properly signed and sealed and one (1) copy of which will be forwarded to the Project Manager.

At the time a Guaranteed Maximum Price (GMP) is established, as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date, and an Owner Occupancy Date for completion of the Project in accordance with the Master Project Schedule shall also be established by the Construction Team.

- (8) The Architect-Engineer, consulting with the Construction Team, shall prepare necessary addenda to Bid Groups, if applicable, and provide copies to the Construction Manager. Prior to distribution all addenda shall be approved by the Project Manager. Copies of each addendum, properly signed and sealed, shall be forwarded to the Project Manager.
- (9) When the facility being designed under this Agreement meets the definition of a threshold building as defined in Section 553.71(7), Florida Statutes, the Architect-Engineer must prepare and submit to the Owner and Permitting Authority two (2) copies of a Threshold Building Inspection Plan. This Threshold Building Inspection Plan must give specific inspection procedures and schedules so that the building will be adequately inspected for compliance with the permitted construction documents.

The Architect-Engineer shall provide Construction Documents (Design Documents, Specifications, etc.) which conform to applicable building codes (see Chapter 60D-7, Florida Administrative Code), zoning codes, and generally accepted construction industry standards.



The Architect-Engineer shall signify responsibility for the Construction Documents prepared pursuant to this Agreement by affixing its signature, date, and seal thereto as required by Chapters 471 and 481, Florida Statutes. If the facility being constructed meets the definition of a threshold building as defined in Section 553.71(7), Florida Statutes, then the Architect-Engineer shall insert the following statement on each sheet required by Chapters 471 and 481, Florida Statutes, to be signed, sealed, and dated by the Architect-Engineer:

*To the best of my knowledge, the plans, specifications, and addenda  
comply with the applicable minimum building codes.*

Where this Agreement provides for the Owner's approval of the Architect-Engineer's design suggestions and decisions, such approval shall not relieve the Architect-Engineer of any responsibility or warranty hereunder.

- (10) When the appropriation for the facility being designed under this Agreement includes an amount for artwork pursuant to Section 255.043, Florida Statutes, the Architect-Engineer's principal shall participate on the Art Selection Committee, which shall be organized and administered by the State of Florida, Department of State.

### 3.6 Bidding Phase

- (1) When a Construction Manager is retained by the Owner, the Construction Manager shall be responsible for administering the bidding of each Bid Group or subcontractor bid. For lump sum bids, the Architect-Engineer shall administer the bidding in accordance with the DMS Design Professional Guidelines.
- (2) The Architect-Engineer shall evaluate product equals at the request of the Construction Manager and make a decision on each in a timely manner.
- (3) The Architect-Engineer shall attend the pre-bid conference and bid opening for each Bid Group or subcontractor bids.
- (4) The Architect-Engineer will assist the Construction Team in evaluating all bids received and provide comments and a recommendation to the Owner on each proposed authorization for work.

### 3.7 Construction Phase – Administration of the Construction of the Project

- (1) The Construction Phase will commence with a written Authorization from the Project Manager for Construction to begin and, together with the Architect-Engineer's obligation to provide Basic Services under this Agreement, will terminate when final payment to the Construction Manager is made, or in the absence of a final Certificate for Payment or of such due date, 120 days after the date of Substantial Completion of the total project, whichever occurs first.
- (2) Unless otherwise provided in this Agreement and incorporated in the Construction Documents, the Architect-Engineer shall provide administration for the Project as set forth below.
- (3) The Architect-Engineer shall be a representative of the Owner during the construction of the Project and shall advise and consult with the Owner. Instructions to the Construction Manager shall be forwarded through the Architect-Engineer. The Architect-Engineer shall have authority to act on behalf of the Owner only to the extent provided in this Agreement, unless otherwise modified by written instrument in accordance with Subparagraph (18).
- (4) The Architect-Engineer shall provide periodic visits to the site as prescribed in Exhibit B to be generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Construction Documents. Exhibit B, by reference and attachment hereto, forms a part of this Agreement. On the basis of such on-site observations of the Architect-Engineer, the Architect-Engineer shall keep the Owner informed of the progress and quality of the work and shall endeavor to guard the Owner against defects and deficiencies in the work of the Construction Manager.
- (5) The Architect-Engineer shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work, for acts or omissions of the Construction Manager, subcontractor, or any

other persons performing any of the work, or for failure of any to carry out the work in accordance with the Construction Documents.

- (6) The Architect-Engineer shall at all times have access to the Project until completed.
- (7) Based on the Architect-Engineer's observations at the site, the recommendations of the Construction Manager, and an evaluation of the Owner's Certificate of Partial Payment, the Architect-Engineer shall determine the amounts owing to the Construction Manager and shall issue a Certificate of Payment in such amounts as described in Subparagraph (8).
- (8) The issuance of an Owner's Certificate of Partial Payment shall constitute a representation by the Architect-Engineer to the Owner that based on the Architect-Engineer's observation at the site and on the data comprising the Certificate of Payment, work has progressed to the point indicated; that, to the best of the Architect-Engineer's knowledge, information, and belief, the quality of work is in accordance with the Construction Documents, subject to an evaluation of work for conformance with the Construction Documents upon Substantial Completion, to the results or any subsequent tests required by or performed under the Construction Documents, to minor deviations from the Construction Documents correctable prior to completion, and to any specific qualifications stated in the Owner's Certificate of Partial Payment; and that the Construction Manager is entitled to payment in the amount certified. However, the issuance of an Owner's Certificate of Partial Payment shall not be a representation that the Architect-Engineer has made any examination to ascertain how or for what purpose the Construction Manager has used the monies paid on account of the Contract Sum. An example of the Owner's Certificate of Partial Payment is shown in Exhibit H, attached hereto and made a part hereof by reference.
- (9) Should disagreement occur between the Construction Manager and the Architect-Engineer over acceptability of work and conformance with the requirements of the specifications and plans, the Project Manager shall be the final judge of performance and acceptability.
- (10) All interpretations and decisions of the Architect-Engineer shall be consistent with the intent of, and reasonably inferable from, the Construction Documents and shall be in writing.
- (11) The Architect-Engineer's decision in matters relating to artistic effect shall be final if consistent with the intent of the Construction Documents. The Architect-Engineer's decisions on any other claims, disputes, or other matters, including those in question between the Owner and the Construction Manager, shall be subject to claims provisions provided in this Agreement and in the Construction Documents.
- (12) The Architect-Engineer shall have authority to reject work that does not conform to the Construction Documents. Whenever, in the Architect-Engineer's reasonable opinion, it is necessary or advisable to ensure conformance with the provisions of the Construction Documents, the Architect-Engineer shall have authority to require special inspection or testing of work in accordance with the provisions of the Construction Documents, whether or not such work is fabricated, installed, or completed. However, the Architect-Engineer shall take such action only after consultation with the Construction Manager and Owner.
- (13) The Architect-Engineer shall receive submittals such as Shop Drawings, Product Data, and Samples from the Construction Manager and shall review and approve or take other appropriate action upon them, but only for conformance with the design concept of the Project and with the information given in the Construction Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Architect-Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- (14) The Architect-Engineer shall review and approve or take other appropriate action on Change Orders prepared by the Construction Manager for the Owner's approval in accordance with the Agreement between the Owner and the Construction Manager.
- (15) The Architect-Engineer shall have authority to order minor changes in the Project not involving an adjustment in a Contract Sum or an extension of a Contract Time and which are not inconsistent with the intent of the Construction Documents. Such changes shall be affected by written order issued to

the Construction Manager endorsed by the Project Manager.

- (16) The Architect-Engineer, assisted by the Construction Manager, shall conduct inspections to determine the dates of substantial completion and final completion and shall issue appropriate certificates.
- (17) The Architect-Engineer shall assist the Construction Manager in receiving and forwarding to the Owner written warranties and related documents assembled by the Construction Manager and subcontractors.
- (18) The extent of the duties, responsibilities, and limitations of authority of the Architect-Engineer, as a representative of the Owner during construction, shall not be modified or extended without the written consent of the Owner.

#### **ARTICLE 4 ADDITIONAL SERVICES OF THE ARCHITECT-ENGINEER**

Except as set forth in Article 8, the following services cause the Architect-Engineer extra expense. If any services are previously authorized in writing by the Owner's Contracts Administrator or Project Manager, these services shall be paid for by the Owner as a lump sum or as a Multiple of Direct Personnel Expense, whichever is specified in the Authorization. The services causing the Architect-Engineer extra expense include but are not limited to:

- For any Studies or Programming Services.
- Additional services due to significant changes in general scope of the Project or its requirements including, but not limited to, changes in size, complexity, or character of construction.
- Revising previously approved drawings or specifications to accomplish changes.
- Providing more detailed cost estimates than expected from the Architect-Engineer's Estimate of Probable Project Construction Cost.
- When required by the Owner, prepare documents for Change Orders.
- Consultation concerning replacement of any work damaged by fire or other cause during construction and furnishing professional services of the types set forth in Article 3 as may be required in connection with the replacement of such work.
- Arranging for the work to proceed should the Construction Manager default due to delinquency or insolvency.
- Providing prolonged contract administration and observation of construction should the construction Contract Time be exceeded by more than twenty-five percent (25%) and the number of construction inspections as identified in Exhibit B are increased by more than twenty-five percent (25%) due to no fault of the Architect-Engineer. The Architect-Engineer's efforts necessary to accomplish Substantial Completion and Final Completion inspections are included as a Basic Service and shall not be considered as an item of prolonged contract administration and observation, regardless of when performed.
- Provide record-set documents in electronic format (AutoCAD 2009 or later) on CD media by revising as-built drawings to show changes made during the construction process, based on marked up prints, drawings, and other data furnished by the Construction Manager.
- Provide reproduction of drawings and specifications, including sets furnished at each phase for the Owner's, Construction Manager's, and Client Agency's review and approval.
- Project Representation Beyond Basic Services:
  1. If the Owner and the Architect-Engineer agree more extensive representation for the Project than is described in Article 3.7 shall be provided, the Architect-Engineer shall provide one or more additional Project Representatives to assist the Architect-Engineer in carrying out such responsibilities.

2. Such Project Representatives shall be selected, employed, and directed by the Architect-Engineer, and the Architect-Engineer shall be compensated therefore as mutually agreed between the Owner and the Architect-Engineer, as set forth in an Authorization under this Agreement, which shall describe the duties, responsibilities, and limitations of authority of such Project Representatives.
  3. Through the observations of such Project Representatives, the Architect-Engineer shall endeavor to provide further protection for the Owner against defects and deficiencies in the work, but the furnishing of such Project representation shall not modify the rights, responsibilities, or obligations of the Architect-Engineer as described in Article 3.7.
- Services of special consultants, for other than the normal structural, mechanical, and electrical engineering services, and services of estimators making detailed cost estimates.
  - Services of consultants providing surveys, subsurface investigations, and testing.
  - Record Drawings – When required by the Owner for archival purposes of the record set documents, the Architect-Engineer shall use a computer aided design and drafting application (CADD) and shall provide the Owner with two (2) sets of disc files at the conclusion of 100% Construction Documents defined in Article 3.4(1). Drawing files will be compatible with "AutoCad 2009" or a later version. One named electronic drawing file should yield exactly one final plot sheet. The project manual (specifications) should be in Microsoft Word (.doc) or Adobe (.pdf) format. Disc files shall be provided on CD media. Compression programs, such as pkzip or winzip, must not be used. Drawings are to be transmitted in a bound form with no x-refs and with all needed layers turned on and must include any items or instructions needed to seamlessly open the file.
  - Additional services in connection with the Project not otherwise provided for in this Agreement, but subject to written approval of Owner.
  - Compensation for Additional Services that are not included in Basic Services shall be negotiated by the Owner and Architect-Engineer at the time of Owner's request for said Additional Services. Architect-Engineer shall not perform and shall not be entitled to any payment for such Additional Services unless the Owner and Architect-Engineer execute a written document setting forth a description of the Additional Services and the compensation to be paid for same in advance of Architect-Engineer performing such Additional Services. Before negotiating Additional Services, Architect-Engineer shall provide Owner with a list of personnel, proposed hourly rates, hours for each task, and itemization of proposed reimbursables for Owner's review, and any other additional information Owner may require. Subconsultants shall provide the same information on subconsultant's letterhead for their Additional Services. The costs of any Additional Services performed without prior written authorization are waived by Architect-Engineer.

## **ARTICLE 5 TIME**

The Architect-Engineer shall perform Basic Services and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Project Schedule shown as Exhibit C shall be amplified in further detail by the Construction Manager with the agreement of the Architect-Engineer. Such agreement shall not be unreasonably withheld.

## **ARTICLE 6 THE OWNER'S RESPONSIBILITIES**

- 6.1 The Owner shall provide full information as to its requirements for the Project.
- 6.2 The Owner shall designate representatives authorized to act on its behalf. It shall examine documents submitted by the Architect-Engineer and render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the Architect-Engineer's work. It shall observe the procedure of issuing orders to Construction Manager only through the Architect-Engineer.
- 6.3 The Owner shall retain a Construction Manager to manage the construction of the Project. The Construction

Manager's services, duties and responsibilities will be as described in the Agreement between the Owner and the Construction Manager. The terms and conditions of the Agreement will be furnished to the Architect-Engineer and will not be modified without notifying the Architect-Engineer.

- 6.4 The Owner shall furnish or direct the Architect-Engineer to obtain, at the Owner's expense, a certified survey of the site giving, as required, grades and lines of streets, alleys, pavements, and adjoining property; rights of way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the building site; locations, dimensions, and complete data pertaining to existing buildings, other improvements and trees; full information as to available service and utility lines, both public and private; and test borings and pits necessary for determining subsoil conditions.
- 6.5 The Owner shall pay for structural, chemical, mechanical, soil mechanics, or other tests and reports, if required.
- 6.6 The Owner shall arrange and pay for such legal, auditing, and insurance counseling services as may be required by the Owner for the Project.
- 6.7 If the Owner observes or otherwise becomes aware of any defect in the Project, it shall give prompt written notice thereof to the Architect-Engineer and the Construction Manager.
- 6.8 If the Estimate of Probable Project Construction Cost is in excess of any limit stated herein, the Owner may give written approval of an increase in the limit or shall cooperate in revising the project scope or quality, or both, to reduce the cost as required or assist in defining bid alternatives.

## **ARTICLE 7 CONSTRUCTION COST**

### 7.1 Definition of Construction Cost

- (1) The Construction Cost shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Architect-Engineer. The Construction Cost shall not exceed the Owner's Construction Budget. The Owner's Construction Budget is set forth in Article 1.
- (2) The Construction Cost shall also include the cost of labor and materials furnished by the Owner and any equipment which has been designed, specified, selected, or specially provided for by the Architect-Engineer. It shall also include the Construction Manager's compensation for services, Reimbursable Costs, and the cost of work provided by the Construction Manager.
- (3) The Construction Cost does not include the compensation of the Architect-Engineer and the Architect-Engineer's consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Owner.

### 7.2 Responsibility for Construction Cost

- (1) The Architect-Engineer, as a design professional familiar with the construction industry, shall assist the Construction Manager in evaluating the Owner's Construction Budget and shall review the estimates of Construction Cost prepared by the Construction Manager. If the Project is a lump sum bid project, the Architect-Engineer will review the bids.

It is recognized, however, that neither the Architect-Engineer, nor the Owner has control over the cost of labor, materials, or equipment; over the Construction Managers' method of determining bid prices; or over competitive bidding, market, or negotiating conditions. Accordingly, the Architect-Engineer cannot and does not warrant or represent that bids or negotiated prices will not vary from the Construction Budget proposed, established, or approved by the Owner, or from the estimate of Construction Cost or other cost estimate or evaluation prepared by the Construction Manager.

- (2) The Construction Cost shall be established as a condition of this Agreement by the furnishing, proposal, or establishment of the Owner's Construction Budget and agreed upon by the Owner and Architect-Engineer. In the establishment of the Construction Budget the Construction Team will include contingencies for price escalation and the Construction Team will consult with the Architect-Engineer to determine what materials, equipment, component systems, and types of construction are to be included in the Owner's Construction Budget, to make reasonable adjustments in the scope of the Project, and to include in the Construction Documents alternate bids to adjust the Construction Cost.

- (3) If bids are not received within the time scheduled at the time the Construction Cost was established due to causes beyond the Architect-Engineer's control, the Construction Cost established as a condition of this Agreement shall be adjusted to reflect any change in the general level of prices in the construction industry between the originally scheduled date and the date on which bids are received.
- (4) If the Construction Cost is exceeded by the sum of the lowest figures from bona fide bids of negotiated proposals, plus the Construction Manager's estimate of other elements of Construction Cost for the Project, the Owner shall:
  - Give written approval of an increase in the Construction Budget;
  - Authorize re-bidding or renegotiation of the Project or portions of the Project within a reasonable time; or
  - Cooperate in revising the Project scope and quality as required to reduce the Construction Cost.

In the case of Item (2) referenced above, the Architect-Engineer shall modify the drawings and specifications as necessary, without additional cost to the Owner. The providing of such service shall be the limit of the Architect-Engineer's responsibility.

### **ARTICLE 8 REIMBURSABLE EXPENSES**

Reimbursable Expenses – Such expenses shall include actual expenditures made by the Architect-Engineer in the interest of the Project for the following expenses:

- (1) Transportation and living of principals and employees when traveling in connection with services other than those defined in Article 3;
- (2) Fees paid for securing approval of authorities having jurisdiction over the Project;
- (3) Premium portions of overtime;
- (4) Any additional insurance coverage or limits, including professional liability insurance, requested by the Owner in excess of that normally carried by the Architect-Engineer and the Architect-Engineer's consultants.

Reimbursable Expenses shall not be incidental to the services defined in Article 3 and shall not exceed the limits of Section 112.061, Florida Statutes. All Reimbursable Expenses require previous written Authorization from the Owner's Contracts Administrator or Project Manager. There shall be no markup on Reimbursable Expenses.

### **ARTICLE 9 PAYMENTS TO THE ARCHITECT-ENGINEER**

#### 9.1 Payments on Account of Architect-Engineer's Services

- (1) For Basic Services, payments shall be made monthly in proportion to services rendered or at the completion of each phase of the work in proportion to services performed as follows:

	<u>Amount to be Paid</u>
<b>Conceptual Schematic Design Phase</b>	\$
Upon Submittal of Documents	\$
Upon Approval of Documents	\$
<b>Schematic Design Studies Phase</b>	\$
Upon Submittal of Documents	\$
Upon Approval of Documents	\$
<b>Design Development Phase</b>	\$
Upon Submittal of Documents	\$
Upon Approval of Documents	\$
<b>Construction Documents Phase</b>	\$
Upon Submittal of 50% Construction Documents	\$
Upon Approval of 50% Construction Documents	\$

Upon Submittal of 100% Construction Documents	\$
Upon Approval of 100% Construction Documents	\$
<b>Receipt of Bids or Construction Authorizations</b>	\$
<b>Construction Phase</b>	\$
<b>Totals</b>	\$

- (2) Payments for Additional Services of the Architect-Engineer, as defined in Article 4 hereinabove as a lump sum, shall be made as prescribed in the Authorization.
- (3) Payments for Additional Services of the Architect-Engineer's services, as defined in Article 4 hereinabove, as a Multiple of Actual Payroll Costs and for Reimbursable Expenses, as defined in Article 8 hereinabove, shall be made monthly upon presentation of a detailed invoice. A Sample Invoice is attached as Exhibit F, attached hereto and by reference forms a part of this Agreement.

9.2 Invoicing – The Architect-Engineer shall request such compensation by submitting a properly completed invoice in accordance with the Professional Services Guide and using the form attached as Exhibit E. The following documents are required to be submitted with each invoice:

- (1) The Design Professional's Invoice Routing Transmittal, an example of which is attached as Exhibit E, attached hereto and made a part hereof by reference;
- (2) The AE Invoice Form, an example of which is attached as Exhibit F, attached hereto and made a part hereof by reference; and
- (3) The Design Professional's Status Report of Certified Business Enterprise (CBE) Form, an example of which is attached as Exhibit G, attached hereto and made a part hereof by reference. This form must be included even if no Certified Business Enterprise firms were utilized.
- (4) Fourteen (14) calendar days shall be allowed for the Owner's inspection and approval of the goods and services for which any invoice has been submitted.
- (5) Invoices shall be supported by such data substantiating the Architect-Engineer's right to payment as the Owner may require, such as, but not limited to, copies of invoices from subconsultants, receipts for supplies and Reimbursable Expenses, and records of description of services performed, time and names of personnel performing the services, and any other reasonable back-up documents requested.

Any required forms may be accessed at:

[https://www.dms.myflorida.com/business\\_operations/real\\_estate\\_development\\_and\\_management/building\\_construction/forms\\_and\\_documents](https://www.dms.myflorida.com/business_operations/real_estate_development_and_management/building_construction/forms_and_documents)

9.3 Payments Withheld

- (1) No deductions shall be made from the Architect-Engineer's compensation on account of penalty, liquidated damages, or other sums withheld from payments to the Construction Manager, or on account of changes in Construction Cost other than those for which the Architect is held legally liable.
- (2) The Architect-Engineer shall not withhold payments to consultants if such payments have been made to the Architect-Engineer by the Owner. Should this occur for any reason, the Architect-Engineer shall immediately return such monies to the Owner, adjusting pay requests and project bookkeeping as required.

9.4 Project Suspension or Abandonment – If the Project is suspended or abandoned in whole or in part for more than ninety (90) days, the Architect-Engineer shall be compensated for all services performed prior to receipt of written notice from the Owner of such abandonment, together with Reimbursable Expenses then due.

9.5 Florida Statutes Regarding Prompt Payment Requirements – The Architect-Engineer must be familiar with and follow Chapter 489, Chapter 713, Section 255.071, and Section 255.073, Florida Statutes, regarding payment for construction services, materials, and supplies, and payments to subcontractors, sub-subcontractors, materialmen, and suppliers. Failure to do so may result in termination of this Agreement.

**ARTICLE 10**  
**ARCHITECT-ENGINEER'S ACCOUNTING RECORDS**

Records of the Architect-Engineer's direct personnel, consultants, and Reimbursable Expenses pertaining to this Project shall be kept on a generally recognized accounting basis and shall be available to the Owner or its authorized representative at mutually convenient times. The Architect-Engineer shall preserve all contract records and documents for the entire term of this Agreement and for five (5) years after the later of: (i) the date of submission of the Architect-Engineer's final services, or (ii) until all claims (if any) regarding the Agreement are resolved. During such period of time, the Architect-Engineer shall retain and maintain all records and make such records available for an audit as may be requested by Owner.

The records shall be subject at all times to inspection, review, or audit by the Owner. The Owner may, at any time and for any reason whatsoever, review, audit, copy, examine, and investigate in any manner, any records of Architect-Engineer which include, but are not limited to, papers, books, documents, vouchers, bills, invoices, requests for payment, accounting records, and other supporting documentation, which according to generally accepted accounting principles, procedures, and practices, sufficiently and properly reflect all costs expended in the performance of this Agreement.

The Architect-Engineer agrees to reimburse the Owner and the State for the reasonable costs of investigation incurred by the Owner, the Inspector General, State Auditor General, or other authorized State official or agent for investigations of Architect-Engineer's compliance with the terms of this Agreement which results in disallowed costs. Such reasonable costs shall include but shall not be limited to salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees.

The Architect-Engineer understands and will comply with the requirements of Section 20.055(5), Florida Statutes, including but not necessarily limited to, the duty of Architect-Engineer and any of Architect-Engineer's subcontractors or subconsultants to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing pursuant to Section 20.055, Florida Statutes.

**ARTICLE 11**  
**TERMINATION OF AGREEMENT**

- 11.1 Termination by the Architect-Engineer – If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials or services unavailable, through no act or fault of the Architect-Engineer, or if the Project should be stopped for a period of sixty (60) days by the Architect-Engineer for the Owner's failure to make payments thereon, then the Architect-Engineer may, upon seven (7) days written notice to the Owner, request payment for all work executed, the Architect-Engineer's fees earned to date, and for any proven loss, injury, or damage sustained or incurred by the Architect-Engineer that is recoverable under Florida law.
- 11.2 Owner's Right to Perform Architect-Engineer's Obligations and Termination by Owner for Cause
- (1) If the Architect-Engineer fails to perform any of their obligations under this Agreement, including any obligation they assume to perform work with their own forces or those of a subcontractor, the Owner may, after seven (7) days written notice during which period the Architect-Engineer fails to commence and sufficiently pursue correction of such obligation, make good such deficiencies. The Architect-Engineer's Fee shall be reduced by an amount required by the Owner to manage the making good of such deficiencies.
- (2) Agreement Termination – Termination of this Agreement may occur if the Architect-Engineer:
- is adjudged bankrupt,
  - makes a general assignment for the benefit of their creditors,
  - has a receiver appointed on account of their insolvency,
  - persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to maintain the established schedule. Failure to maintain schedule shall be defined as any activity that falls forty-five (45) days or more behind schedule,
  - fails to make prompt payment to subcontractors,
  - persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or



- is guilty of a substantial violation of a provision of the Agreement.

In such case, the Architect-Engineer shall not be entitled to receive any further payment until the Project is finished nor shall they be relieved from obligations assumed under Articles 3 and Article 4. Reasonable termination expenses incurred by the Owner may be deducted from any payments left owing the Architect-Engineer, excluding monies owed the Architect-Engineer for subcontract work.

- (3) If the Architect-Engineer refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Architect-Engineer in conjunction with this Agreement, then the Owner may, without prejudice to any right or remedy and after giving the Architect-Engineer and its surety, if any, seven (7) days written notice, during which period Architect-Engineer still fails to allow access, terminate the employment of the Architect-Engineer and may finish the Project by whatever method may be deemed expedient. In such case, the Architect-Engineer shall not be entitled to receive any further payment until the Project is finished nor shall they be relieved from their obligations assumed under Article 3 and Article 4. Reasonable terminal expenses incurred by the Owner may be deducted from any payments left owing the Architect-Engineer, excluding monies owed the Architect-Engineer for subcontract work.

- 11.3 Termination for Convenience – The performance of work under this contract may be terminated by the Owner in accordance with this clause in whole, or from time to time in part, for convenience. Upon termination, as its sole and exclusive remedy, the Architect-Engineer shall be entitled to payment for services completed to the date of termination, including reimbursements due. The percentage of completion shall be determined by the Owner, based upon the approved Project Schedule, attached hereto and made a part hereof by reference as Exhibit C.

## **ARTICLE 12 OWNERSHIP OF DOCUMENTS**

Drawings, specifications, reports, and all other documents, including those in electronic form, prepared by the Architect-Engineer and the Architect-Engineer's consultants ("Design Documents") are the sole and exclusive property of the Owner, shall be considered as being specially ordered by Owner as "works made for hire" under 17 U.S.C. §101, and may be used in any manner at the sole discretion of Owner. Owner shall have full and sole ownership rights to the Design Documents, regardless of any payment disputes with Architect-Engineer. Architect-Engineer shall furnish Owner with such reproductions of any Design Documents as the Owner may request at any time in both electronic and printed form. Any reproductions shall be the sole and exclusive property of the Owner who may use them without Architect-Engineer's permission for any purpose determined to be proper by the Owner. Owner shall own all rights, copyrights, or other intellectual property there may be with respect to the Design Documents.

In the event that the Design Documents are held not to be "works made for hire", then Architect-Engineer agrees that all Design Documents, whether in final form or draft, which result from any Services performed by Architect-Engineer under this Agreement, are hereby assigned exclusively to Owner, including any copyright, patent, trademark, and all other intellectual property rights. In all cases, Architect-Engineer further hereby expressly assigns all of its present and future rights therein to Owner, and agrees to execute and furnish, and to cause all the Architect-Engineer's consultants to execute and furnish, in favor of Owner separate assignment documents from time to time as requested by Owner.

This Section shall survive any termination or expiration of this Agreement. The Architect-Engineer shall be entitled to retain copies of the Design Documents for the Architect-Engineer's use and records. Owner shall be free to use the Design documents for any purpose, including, but not limited to, completion, renovation, additions, and expansion of the Project. The Architect-Engineer shall have no liability for the Owner's use of the Design Documents for a use unrelated to the Project. Architect-Engineer shall require language in each of its subconsultants' contracts providing for Owner's ownership of all Project documents and the Design Documents. These plans are subject to reuse in accordance with Article 287.055(10), Florida Statutes.

## **ARTICLE 13 SUCCESSORS AND ASSIGNS**

The Owner and the Architect-Engineer each bind itself, its partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party

in respect of all covenants of this Agreement. Neither the Owner nor the Architect-Engineer shall assign, sublet, or transfer interest in this Agreement without the written consent of the other.

## **ARTICLE 14 CLAIMS AND DISPUTES**

The provisions of Title 28, Florida Administrative Code, are referred to and adopted by reference as though set forth herein.

Under the terms of this Agreement the Architect-Engineer shall not have any right to compensation other than, or in addition to, that provided by this Agreement to satisfy any claim of any kind whatsoever unless the claim therefore is delivered to the Owner within ninety (90) days from the date on which the act or event constituting the basis of such claim occurs. Failure to present any claim arising under this Agreement within the ninety (90) days' time period specified above shall constitute waiver and abandonment of Architect-Engineers' right to seek administrative consideration of said claim.

All such claims shall set forth in a petition addressed to the Owner shall include the following:

- (1) The Architect-Engineer's name and business address;
- (2) A concise statement of the ultimate facts, including a statement of all disputed issues of material fact, upon which the claim is based;
- (3) A concise statement of the provisions of the contract, together with any federal, state, and local laws, ordinances or code requirements or customary practices and usages in the trade or profession asserted to be applicable to the questions presented by the claim; and
- (4) A demand for that specific relief to which the Architect-Engineer deems itself entitled.

Within thirty (30) days from the receipt of any petition setting forth the claim, the Owner shall provide the Architect-Engineer its written response stating Owner's position with respect to each claim asserted. Thereafter, upon not less than fifteen (15) days' notice to the Architect-Engineer, the Owner shall convene a proceeding pursuant to the rules of procedure of the Owner and shall thereafter enter a final order upon the petition.

The venue for all civil and administrative actions against the Owner shall be exclusively in Leon County, Florida, unless otherwise agreed by the parties.

## **ARTICLE 15 PROHIBITION AGAINST CONTINGENT FEES**

The Architect-Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the architect, or registered land surveyor, or professional engineer, as applicable, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for the Architect-Engineer, or registered land surveyor, or professional engineer, as applicable, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the Owner shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Basic Services Compensation, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

## **ARTICLE 16 SPECIAL PROVISIONS**

16.1 The Architect-Engineer must use the latest edition of the *Professional Services Guide* (PSG) provided by the State of Florida, Department of Management Services, Division of Real Estate Development and Management. It is furnished to assist the Architect-Engineer in the performance of services under this Agreement. Since this document is merely a guide, the Architect-Engineer must discuss the specific requirements of this project with the Owner's Project Manager and utilize only those portions of this document which apply. The Architect-Engineer may request the latest edition of the PSG from the Project Manager or print a copy from the website below, in the Documents section:

[http://dms.myflorida.com/business\\_operations/real\\_estate\\_development\\_management/building\\_construction/forms\\_and\\_documents](http://dms.myflorida.com/business_operations/real_estate_development_management/building_construction/forms_and_documents)

- 16.2 Monthly Reports:
- (1) It shall be the responsibility of the Architect-Engineer to fully inform the Owner of the progress of the planning, design, and construction of the Project. To this end, the Architect-Engineer shall furnish the Project Manager with a complete and descriptive status report and a forecasted completion schedule at the end of each month following the execution of this Agreement. The Architect-Engineer shall furnish a status report until substantial completion of the Project has occurred.
  - (2) The Architect-Engineer shall complete a Real Estate Development and Management Status Report each month based on knowledge obtained through observation of the Project. See Exhibit J for a Sample Report format. The Architect-Engineer shall submit this report to the Project Manager on or before the first day of each month.
- 16.3 Meeting Minutes – The Architect-Engineer shall take minutes of all meetings held with the Owner and/or Client Agency and shall provide copies of the same to the Owner and Client Agency within ten (10) days following such meetings.
- 16.4 Bills for Travel Expenses – Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Bills for any travel expenses shall be submitted in accordance with procedures specified in Section 112.061, Florida Statutes, governing payments by the State for travel expenses. Travel expenses, when authorized, may be reimbursed in an amount not to exceed the maximum amount established in Section 112.061, Florida Statutes, for distances greater than one hundred (100) miles from the Architect-Engineer's home office to the Project site as the project requires. Distances less than one hundred (100) miles may not be included. The Architect-Engineer must complete the required forms necessary to be compensated for travel and provide all required documentation to the Project Manager.
- 16.5 Truth-In-Negotiation – By execution of this Agreement, the Architect-Engineer certifies that the wage rates and other factual unit costs supporting the Basic Services compensation specified in Article 2, Section 2.1 are accurate, complete, and current at the time of negotiations for this Agreement and that any wage rates or other factual unit costs furnished the Owner in the future to support additional service proposals will also be accurate, complete, and current at the time of submitting such proposals. The Architect-Engineer agrees that Basic Services Compensation and any authorized Additional Services compensation shall be adjusted to exclude any significant sums by which the Owner determines such compensations were increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. The Owner and the Architect-Engineer agree that all such adjustments in compensation shall be made within one (1) year following completion of the services covered by this Agreement.
- 16.6 Architect-Engineer's Payment Rights – Architect-Engineers providing goods and services to the Owner should be aware of the following time frames. Upon receipt of invoice, the Owner has fourteen (14) calendar days to inspect and approve the goods and services, see Article 9.1(4) hereinabove, and to deliver a request for payment to the Department of Financial Services. The fourteen (14) calendar days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.
- If the payment is not available to the Owner for transmittal to the Architect-Engineer within forty (40) days, a separate interest penalty set by the Department of Financial Services pursuant to Section 55.03, Florida Statutes, will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Bureau of Accounting section found on the Department of Financial Service's website. The forty (40) days are also measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved. Interest penalties of less than one (1) dollar will not be enforced unless the Architect-Engineer requests payment. Invoices which must be returned to an Architect-Engineer because of Architect-Engineer preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Owner.
- A Vendor Ombudsman has been established within the Department of Financial Services. The duties of the Vendor Ombudsman are specified in Section 215.422, Florida Statutes, and include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman's may be contacted at 850-413-5516.
- 16.7 Public Entity Crime Information Statement – Architect-Engineer represents that it is not on the State's convicted vendor list and that for services related to this Agreement, Architect-Engineer shall not transact business with

any entity that has been placed on the State's convicted vendor list. The Architect-Engineer is hereby informed of the provisions of Section 287.133(2)(a), Florida Statutes, that identify the impacts to its ability or its affiliates' ability to respond to the competitive solicitations of a public entity; to be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity; or to transact business with a public entity if it, or its affiliates, are placed on the convicted vendor list of the Department of Management Services. Additionally, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statute, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

- 16.8 Criminal History Background Checks – The Department or Customer may require the Contractor to conduct background checks of its employees, agents, representatives, and subcontractors as directed by the Department or Customer. The cost of the background checks will be borne by the Contractor. The Department or Customer may require the Contractor to exclude the Contractor's employees, agents, representatives, or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three (3) calendar days any arrest for any disqualifying offense. The Contractor must notify the Contract Manager within twenty-four (24) hours of all details concerning any reported arrest. Upon the request of the Department or Customer, the Contractor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Contract.
- 16.9 Unauthorized Aliens – The Owner shall consider the employment by the Architect-Engineer of an unauthorized or undocumented alien to be a *prima facie* violation of Section 274A(e) of the Immigration and Nationalization Act. Such violation shall be grounds for immediate, unilateral termination of this Agreement.
- 16.9.1 Unauthorized Alien Checks Through E-Verify – Pursuant to the State of Florida, Office of the Governor, Executive Order Number 11-116, the Architect-Engineer will utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of: all persons employed during the term of this Agreement by the Architect-Engineer to perform employment duties within Florida within three (3) business days after the date of hire; and all persons (including subcontractors) assigned by the Architect-Engineer to perform work pursuant to this Agreement with the Department within ninety (90) calendar days after the date this Agreement is executed or within thirty (30) days after such persons are assigned to perform work pursuant to the Agreement, whichever is later.
- 16.9.2 E-Verify Notice - The Contractor and its subcontractors have an obligation to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system for all newly hired employees in accordance with Section 448.095, Florida Statutes. By executing this Contract, the Contractor certifies that it is registered with, and uses, the E-Verify system for all newly hired employees in accordance with Section 448.095, Florida Statutes. The Contractor must obtain an affidavit from its subcontractors in accordance with paragraph (2)(b) of Section 448.095, Florida Statutes, and maintain a copy of such affidavit for the duration of the Contract. The Contractor shall provide a copy of its DHS Memorandum of Understanding (MOU) to the Department's Contract Manager within five (5) days of Contract execution.
- This section serves as notice to the Contractor regarding the requirements of Section 448.095, Florida Statutes, specifically sub-paragraph (2)(c)1, and the Department's obligation to terminate the Contract if it has a good faith belief that the Contractor has knowingly violated Section 448.09(1), Florida Statutes. If terminated for such reason, the Contractor will not be eligible for award of a public contract for at least one (1) year after the date of such termination. The Department will promptly notify the Contractor and order the immediate termination of the contract between the Contractor and a subcontractor performing work on its behalf for this Contract should the Department have a good faith belief that the subcontractor has knowingly violated Section 448.09(1), Florida Statutes.
- 16.10 Contingency Statement – The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Florida Legislature.
- 16.11 Indemnification and Waiver of Liability – The Architect-Engineer agrees, to the fullest extent permitted by law, to indemnify and hold the Owner and its officers and employees harmless from liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Architect-Engineer and other persons employed or

utilized by the Architect-Engineer in the performance of this Agreement.

- 16.12 Insurance Requirements – The Architect-Engineer shall maintain during the terms of this Agreement, except as noted, the following insurance policies:
- (1) Professional Liability Insurance in the amount of \$1,000,000.00, with deductible per claim not to exceed \$50,000.00, which shall be the limit of liability providing for all sums which the Architect-Engineer shall become legally obligated to pay as damages for claims arising out of the services performed by the Architect-Engineer or any person employed by them in connection with this Agreement. This insurance shall be maintained for three (3) years after completion of the Project and acceptance of any work covered by this Agreement. However, the Architect-Engineer may purchase Specific Project Architect's or Engineer's Professional Liability Insurance which is also acceptable.
  - (2) Comprehensive General Liability Insurance with broad form endorsement, including automobile liability, completed operations and products liability, contractual liability, severability of interests with cross liability provision, and personal injury and property damage liability with limits of \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage. Said policy or policies shall name the Owner as additional insured and shall reflect the hold harmless provision contained herein.
  - (3) Worker's Compensation Insurance for the employees of Architect-Engineer as required by Chapter 440, Florida Statutes, and Employers' Liability Insurance with limits not less than \$1,000,000.00.
  - (4) Other, or increased amounts of, insurance which the Owner shall from time to time deem advisable or appropriate, at the Owner's expense. Such new or additional insurance is to be effective as of the sooner of ninety (90) days after notice thereof or the next annual renewal of any policy being increased, as applicable.
  - (5) All policies referenced in Section 16.11, except Professional Liability Insurance, shall contain waiver of subrogation against the Owner where applicable and shall expressly provide that such policy or policies are primary over any other collective insurance that the Owner may have.
  - (6) All the above insurance is to be placed with Best-rated A-8 or better insurance companies qualified to do business under the laws of the State of Florida.
  - (7) The Owner shall be named as and additional insured under such policies except Professional Liability Insurance. Said policies shall contain a "severability of interest" or "cross liability" clause without obligation for premium payment of the Owner. The Owner reserves the right to request a copy of required policies for review.
  - (8) All policies shall provide for 30 days' notice to the Owner prior to cancellation or material change.
- 16.13 Electronic Mail Capabilities – The Architect-Engineer must have electronic mail capabilities through the World Wide Web. It is the intention of the Department of Management Services to use electronic communication whenever possible for all projects. When possible, plans and specifications for review purposes will also be transmitted electronically to the Department of Management Services. The Architect-Engineer shall provide its electronic mail address and a name of a point of contact for electronic communications.
- 16.14 Confidentiality of Building Plans – Pursuant to Section 119.071(3)(b), Florida Statutes, all building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency are exempt from inspection or disclosure under Florida's Sunshine laws. The Architect-Engineer agrees to protect and ensure the confidentiality of such documents under its custody or control in conformance with the requirements of Section 119.071(3), Florida Statutes, and all applicable laws and shall include on the cover page of all plans the following statement:  
*"All plans contained herein are confidential."*
- Any violation of Chapter 119, Florida Statutes, will be sufficient grounds for immediate termination of this Agreement by the Department of Management Services.
- 16.15 Public Inquiries – All inquiries, in person, writing, or electronic correspondence received from elected officials,

staff of elected officials, registered lobbyists, or members of community organizations shall be directed to the DMS Office of Legislative Affairs at 850-921-5266 or may be forwarded to [Communications@dms.myflorida.com](mailto:Communications@dms.myflorida.com).

- 16.16 Electronic Execution – This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the party executing, or on whose behalf such signature is executed, with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof, and the transmitting party shall deliver the inked original to the Owner, upon the Owner’s request.
- 16.17 Pursuant to Section 558.0035, Florida Statutes, an individual employee or agent of Architect-Engineer may not be held individually liable for negligence.
- 16.18 Sovereign Immunity – Owner’s limits of liability are set forth in Section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of Owner beyond that provided in Section 768.28, Florida Statutes. Nothing herein is intended as a waiver of Owner’s sovereign immunity under Section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to anything which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of Owner’s obligations under this Agreement are limited to the payment of no more than the per person amount limitation and the aggregate contained in Section 768.28, Florida Statutes, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.

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

- 16.19 Non-Discrimination – Architect-Engineer and its subconsultants shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Architect-Engineer shall take affirmative action to ensure that qualified applicants are employed if work is available and that employees are treated during employment without regard to their race, religion, color, sex, creed, handicap, marital status, or national origin. Architect-Engineer agrees to post in places available to all employees and applicants for employment, notices setting forth the policies of nondiscrimination.

Architect-Engineer shall, in all solicitations or advertisements for employees, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, creed, handicap, marital status, or national origin.

- 16.20 Discriminatory Vendor List – Architect-Engineer represents that it is not on the State’s discriminatory vendor list and that for services related to this Agreement, Architect-Engineer shall not transact business with any entity that has been placed on the State’s discriminatory vendor list. The Architect-Engineer is hereby informed of the provisions of Section 287.133(2)(a), Florida Statutes, that identify the impacts to its ability or its affiliates’ ability to respond to the competitive solicitations of a public entity; to be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity; or to transact business with a public entity if it, or its affiliates, are placed on the discriminatory vendor list of the Department of Management Services.
- 16.21 Proposal Terms Not Incorporated – In the event Architect-Engineer has presented a proposal to Owner which may contain terms and conditions other than a description of the scope of Services, such terms and conditions shall not be valid, shall not be enforceable, and shall not be considered a part of this Agreement. Only the description of the scope of Services to be performed that is in this Agreement shall be considered a part of this Agreement.
- 16.22 COVID19 – Architect-Engineer’s Fees include all amounts necessary to comply with all regulations, ordinances, and laws concerning COVID19, including PPE, sanitation, and social distancing requirements.

### 16.23 Scrutinized Companies List

- (1) By executing this Agreement, Architect-Engineer certifies that it is not:
  - a. Listed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes,
  - b. Engaged in a boycott of Israel,
  - c. Listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473 of the Florida Statutes, or
  - d. Engaged in business operations in Cuba or Syria.

Pursuant to section 287.135(5) of the Florida Statutes, Owner may immediately terminate this Agreement for cause if the Architect-Engineer is found to have submitted a false certification as to the above or if the Architect-Engineer is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement.

If Owner determines that the Architect-Engineer has submitted a false certification, Owner will provide written notice to the Architect-Engineer. Unless the Architect-Engineer demonstrates in writing, within 90 calendar days of receipt of the notice, that Owner's determination of false certification was made in error, Owner shall bring a civil action against the Architect-Engineer. If Owner's determination is upheld, a civil penalty equal to the greater of \$2 million or twice the amount of this Agreement shall be imposed on the Architect-Engineer, and the Architect-Engineer will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of Owner's determination of false certification by the Architect-Engineer.

- (2) If federal law ceases to authorize the states to adopt and enforce the contracting prohibition in this Section, this Section shall be null and void without further action of the parties.

### 16.24 CERTIFIED BUSINESS ENTERPRISE PARTICIPATION

16.24.1 Office of Supplier Development – The State of Florida supports its business community by creating opportunities for business enterprises to participate in procurements and contracts. The Department encourages supplier development through certain certifications and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Development (OSD) at [OSDHelp@dms.fl.gov](mailto:OSDHelp@dms.fl.gov).

16.24.2 Reporting Certified Business Enterprises – Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and vendor identification information of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each agency purchasing under this Agreement.

### 16.25 Public Records –

- (1) To the extent Architect-Engineer is acting on behalf of Owner as provided under Subsection 119.011(2) of the Florida Statutes, Architect-Engineer shall:
  - a. Keep and maintain public records required by Owner to perform the services under this Agreement.
  - b. Upon request from Owner's custodian of public records, provide Owner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided in Chapter 119 of the Florida Statutes or otherwise provided by law.
  - c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Architect-Engineer does not transfer the records to Owner.
  - d. Upon completion of the Agreement, transfer, at no cost, to Owner all public records in possession of Architect-Engineer or keep and maintain public records required by Owner to perform the service. If the Architect-Engineer transfers all public records to Owner upon completion of the Agreement, the Architect-Engineer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Architect-Engineer keeps and maintains public records upon completion

of the Agreement, the Architect-Engineer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Owner, upon request from Owner's custodian of public records, in a format that is compatible with the information technology systems of Owner.

- (2) If the Architect-Engineer fails to provide the public records to Owner within a reasonable time the Architect-Engineer may be subject to penalties under Section 119.10 of the Florida Statutes. Further, Owner may exercise any remedies at law or in equity, including, without limitation, the right to (i) impose sanctions and assess financial consequences, (ii) withhold and/or reduce payment, and (iii) terminate this Agreement in accordance with the terms hereof. Architect-Engineer shall defend, at its own cost, indemnify, and hold harmless Owner, their officers, directors, and employees from and against all claims, damages, losses, and expenses, (including but not limited to fees and charges of attorneys or other professionals and court and arbitration or other dispute resolution costs) arising out of or resulting from Architect-Engineer's failure to comply with the terms of this Section.
- (3) **IF THE ARCHITECT-ENGINEER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ARCHITECT-ENGINEER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT OWNER'S CUSTODIAN OF PUBLIC RECORDS FOR THIS PROJECT, Contract Administrator AT [REDMProcurement@DMS.FL.GOV](mailto:REDMProcurement@DMS.FL.GOV); OR MAIL TO DMS/REDM Contracts Administration, 4050 Esplanade Way, Suite 315, Tallahassee, Florida 32399.** Any knowing violation of Chapter 119, Florida Statutes, may be sufficient grounds for immediate termination of the Contract by the Owner.

16.26 Document Inspection - In accordance with section 216.1366, Florida Statutes, the Department is authorized to inspect the: (a) financial records, papers, and documents of the Contractor that are directly related to the performance of the Contract or the expenditure of state funds; and (b) programmatic records, papers, and documents of the Contractor which the Department determines are necessary to monitor the performance of the Contract or to ensure that the terms of the Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Department within 10 Business Days after the request is made to the Contractor.

16.27 RESPECT - Subject to the agency determination provided for in Section 413.036, Florida Statutes, the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES;

AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about RESPECT and the commodities or contractual services it offers is available at <https://www.respectofflorida.org>.

16.28 PRIDE - Subject to the agency determination provided for in Sections 287.042(1) and 946.515, Florida Statutes, the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY



INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at <https://www.pride-enterprises.org>.

- 16.29 The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority.

## **ARTICLE 17 CONTINUING CONTRACTUAL SERVICES**

Article 17 refers to Continuing Contractual Services. This Article may be disregarded if this is not an Agreement for Continuing Services.

- 17.1 The Owner intends to periodically implement specific designated projects in the [REDACTED] Region. Projects implemented under this Agreement shall be those having estimated construction costs not exceeding the threshold provided in Section 287.055(2)(g), Florida Statutes.
- 17.2 The Architect-Engineer agrees to provide professional services for each Project as set forth when activated in writing by the Owner's Contracts Administrator.
- 17.3 Scope of Contract – This Agreement is entered into pursuant to Section 255.35, Florida Statutes, for the coordination and supervision of construction projects at any location in the State of Florida. This Agreement is not an exclusive contract and no amount of work is guaranteed as a result of this Agreement. The assignment of Projects to the Architect-Engineer will be at the Owner's discretion.
- 17.4 Fees and Activation – Once the Owner identifies a Project to present to the Architect-Engineer under this Agreement, the parties will conduct negotiations for fees and other conditions for the designated Project. The Architect-Engineer shall provide the Owner with a written proposal containing the negotiated fee and contract conditions. If accepted, the Owner will issue an Activation Letter to the Architect-Engineer.
- 17.5 Activation Letter – A written document issued by the Owner's Contracts Administrator authorizing the Architect-Engineer to proceed with a specific Project. The Activation Letter will identify the Architect-Engineer's negotiated fees and the Owner's Construction Budget. The Activation Letter may not conflict with the terms of this Agreement. An example of the Activation Letter is attached hereto and made a part hereof by reference as Exhibit I.
- 17.6 Term of Agreement – Unless terminated pursuant to Article 11, this Agreement shall remain in force from [REDACTED] through [REDACTED], or for a period following [REDACTED] which may be reasonably required to complete any Projects activated prior to [REDACTED]. This Agreement may be renewed at the Owner's discretion for an additional two-year period from [REDACTED] to [REDACTED]. If this Agreement is renewed, any Project activated prior to [REDACTED] will follow the same terms as shown above.
- 17.7 Supporting Documentation for Invoices – In addition to the documents required in Article 9.2, the Architect-Engineer must submit with each invoice a copy of the Activation Letter or select pages from an individual project contract that shows the title sheet, the contract amount in Article 9.1, and the signature page.

## **ARTICLE 18 FEDERAL FUNDS APPLICABILITY**

Article 18 refers to federal funding. The applicable federal authorization for funding governing this Agreement, including the performance period and the applicable regulations are set forth in Exhibit L, Federal Funding Information. The terms in this section apply if federal funds are used to fund this Project. This Article and the incorporated and the incorporated Exhibit L, Federal Information, Exhibit M, State Fiscal Recovery Fund Requirements, and Exhibit N, Audit Requirements for Awards of Federal Financial Assistance, may be disregarded if federal funding is not used for this Project.

- 18.1 FEDERAL FUNDS APPLICABILITY

- 18.1.1 If this Agreement includes federal funding, the provisions of Exhibit M, State Fiscal Recovery Fund Requirements, incorporated herein by reference, apply to the Architect-Engineer to the extent applicable and as allowable by law. The term “subrecipient” as used in Exhibit M, State Fiscal Recovery Fund Requirements, shall apply to the Architect-Engineer.
- 18.1.2 If this Agreement contains \$10,000 or more of federal funds, the Architect-Engineer shall comply with Executive Order 11246, Equal Employment Opportunity, as amended by Executive Order 11375 and others, and as supplemented in Department of Labor regulation 41 CFR Part 60, if applicable.
- 18.1.3 If this Agreement contains over \$150,000 of federal funds, the Architect-Engineer shall comply with all applicable standards, orders, or regulations issued under section 306 of the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.), section 508 of the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.), Executive Order 11738, as amended, and, where applicable, and Environmental Protection Agency regulations (2 CFR Part 1500). The Architect-Engineer shall report any violations of the above to the Owner.
- 18.1.4 If this Agreement contains over \$100,000 of federal funds and involves the employment of mechanics or laborers, the Architect-Engineer shall comply with 40 U.S.C. 3702 and 3704, as supplemented by 29 CFR Part 5. The Architect-Engineer must ensure all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- 18.1.5 If the Architect-Engineer is a federal subrecipient or pass-through entity, then the Architect-Engineer and its subcontractors who are federal subrecipients or pass-through entities are subject to the following: A contract award (see 2 CFR § 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines in 2 CFR Part 180 that implement Executive Orders 12549 and 12689, “Debarment and Suspension.” SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 18.1.6 If the Architect-Engineer is a federal subrecipient or pass-through entity, the Architect-Engineer and its subcontractors who are federal subrecipients or pass-through entities must determine whether or not its subcontracts are being awarded to a “contractor” or a “subrecipient,” as those terms are defined in 2 CFR §200.01. If an Architect-Engineer or its subcontractor(s) are a subrecipient, the Architect-Engineer must ensure the Architect-Engineer and its subcontractor(s) adhere to all the applicable requirements in 2 CFR Part 200.
- 18.1.7 If this Agreement contains over \$2,000 of federal funds and is required by the applicable federal funding program legislation, the Architect-Engineer shall comply with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148), as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”), and comply with the Copeland “Anti–Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). All applicable federal labor standards clauses are incorporated into the Construction Documents. The Architect-Engineer agrees to familiarize him/herself with “Making Davis-Bacon Work – A Contractor’s Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects” and to comply with all applicable regulations.
- 18.1.8 If the Architect-Engineer is a federal subrecipient or pass-through entity, then the Architect-Engineer and its subcontractors who are federal subrecipients or pass-through entities must comply with the limitations set forth in 2 C.F.R. § 200.216.
- 18.1.9 If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit

organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- 18.1.10 The Architect-Engineer has verified any subcontractor to the Architect-Engineer on the project has not been listed on the government-wide exclusions in the System for Award Management (SAM), [sam.gov](https://sam.gov), in accordance with the OMB guidelines in 2 CFR Part 180 that implement Executive Orders 12549 and 12689, “Debarment and Suspension” and as referenced in Section 19.1.6 of the Agreement.
- 18.1.11 If the Architect-Engineer is debarred, suspended, or otherwise excluded by agencies, as well as declared ineligible under statutory or regulatory authority, other than Executive Order 12549, in SAM, the Architect-Engineer shall notify REDM within 24 hours of debarment or suspension.
- 18.1.12 If the Architect-Engineer determines a subcontractor to the Architect-Engineer has been debarred, suspended, or otherwise excluded by agencies, as well as declared ineligible under statutory or regulatory authority, other than Executive Order 12549, in SAM, the Architect-Engineer shall notify REDM within 24 hours of Architect-Engineer learning of debarment or suspension.

## 18.2 FEDERAL LAWS, RULES, REGULATIONS, AND POLICIES

- 18.2.1 The Architect-Engineer shall comply with the provisions of Federal law and regulations including, but not limited to, 2 CFR Part 200, and other applicable regulations.
- 18.2.2 Performance under this Agreement is subject to the applicable provisions of 2 CFR Part 200, entitled “Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards” including the cost principles and restrictions on general provisions for selected items of cost.
- 18.2.3 The following 2 CFR requirements also apply to this Agreement:
  - (a) 2 CFR Part 24, Universal Identifier and System for Award Management;
  - (b) 2 CFR Part 170, Reporting Subaward and Executive Compensation Information;
  - (c) 2 CFR Part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement).
- 18.2.4 An Architect-Engineer that applies or bids for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 18.2.5 The Architect-Engineer must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
- 18.2.6 The Architect-Engineer should, as appropriate, and to the extent consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States as defined in 2 C.F.R. § 200.322.
- 18.2.7 In addition to the foregoing, if required by the applicable federal funding program, the Architect-Engineer will be governed by and shall comply with all applicable State and Federal laws, rules, regulations, and executive orders including, but not limited to, the applicable laws and regulations set forth in the Owner’s federal funding award. Any express reference in this Agreement to a particular statute, rule, or regulation in no way implies that other statutes, rules, or regulations do not apply.
- 18.2.8 Where applicable, when any Federal rule or regulation regarding Covid-19 response conflicts with

State rules and regulations, the State of Florida rule or regulation will prevail with no consequence to the Owner.

### 18.3 FEDERAL FUNDING TERMS

- 18.3.1 The Architect-Engineer agrees to refund to the Owner any balance of unobligated funds advanced or paid to the Architect-Engineer.
- 18.3.2 The Architect-Engineer shall refund any monies used for ineligible purposes under the laws, rules, and regulations governing the use of the federal funds.
- 18.3.3 The Architect-Engineer shall cooperate and comply with any monitoring procedures, inspections, reviews, investigations, or audits related to the performance of this Agreement.
- 18.3.4 The Architect-Engineer shall identify an individual responsible for monitoring Architect-Engineer's and its subcontractor's performance under the terms of this Agreement including, but not limited to, the adherence to and compliance with all applicable federal funding requirements. This individual shall facilitate providing all reports, information, and documentation from the Architect-Engineer and its subcontractors needed to facilitate the Owner's federal funding reporting requirements. Written notice of the Architect-Engineer's current designated individual, and any subsequent changes to the selected individual, shall be provided to the Owner.
- 18.3.5 If the Architect-Engineer is a federal subrecipient or pass-through entity, the provisions of Exhibit N, Audit Requirements for Awards of Federal Financial Assistance, attached hereto and incorporated herein by reference apply to the Architect-Engineer.
- 18.3.6 No federal funds received in connection with this Agreement may be used by the Architect-Engineer, agent acting for the Architect-Engineer, or subcontractor to influence legislation or appropriations pending before Congress or any State legislature.

The remainder of this page is intentionally left blank.

In Witness Whereof, the parties hereto have executed this Agreement the day and year last written below.

**«AE\_NAME»**

Attest:

Approved:

By \_\_\_\_\_  
(Corporate Secretary's Signature)

By \_\_\_\_\_  
**«CorpFirst» «CorpLast», «TITLE»**

As Witnessed:

By \_\_\_\_\_

(Corporate Seal)

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES**

Attest:

Approved:

By \_\_\_\_\_  
**«ContractMgr»**, Contracts Administrator  
Division of Real Estate Development and Management

By \_\_\_\_\_  
Pedro Allende, Secretary

As Witnessed:

Approved:

By \_\_\_\_\_  
Jennifer Reed, Financial Procurement Administrator  
Division of Real Estate Development and Management

By \_\_\_\_\_  
Brian Fienemann, Director  
Division of Real Estate Development and Management

**EXHIBIT A**

**CONSTRUCTION TEAM ASSIGNED REPRESENTATIVES**

<b><u>Owner – Department of Management Services</u></b>	<b><u>Title</u></b>
«DMSPD»	Project Manager
«ContractMgr»	Contracts Administrator
Brian Fienemann	Director
<b><u>Client Agency - «CLIENT_AGENCY»</u></b>	
«CAProjDir»	Agency Project Manager
<b><u>Architect-Engineer - «AE Name»</u></b>	
	Project Principal
	Project Manager
<b><u>Construction Manager - «CONTRNAME»</u></b>	
To Be Determined	Project Executive
To Be Determined	Project Manager
To Be Determined	Project Superintendent



**EXHIBIT C**  
**PROJECT SCHEDULE**

<u>Action</u>	<u>Date</u>
Project Notice to Proceed	
To Submittal of Conceptual Schematic Documents	
From Approval of Conceptual Schematic Documents	
To Submittal of Schematic Documents	
From Approval of Schematic Documents	
To Submittal of Design Documents	
From Approval of Design Documents	
To Submittal of 50% Construction Documents	
From Approval of 50% Construction Documents	
To Submittal of 100% Construction Documents	
Approval of 100% Construction Documents	
Receipt of Bids or Construction Authorizations	





EXHIBIT E

DESIGN PROFESSIONAL'S INVOICE ROUTING TRANSMITTAL  
(Example)



Division of Real Estate Development and Management  
Bureau of Building Construction

**ARCHITECT-ENGINEER'S  
INVOICE ROUTING TRANSMITTAL**

Invoice Number: _____	Invoice Date: _____
ARCHITECT-ENGINEER: (Company Name, Address, Phone, Fax)	DMS Project Number: _____
_____	DMS Project Name: _____
_____	_____
_____	_____

**ALL RECIPIENTS**

*In order to comply with Florida Law, each recipient must act promptly in handling the attached invoice, recording dates, amounts approved for payment, voucher number(s), and warrant number(s), as applicable and in initialing and retaining copy.*

ARCHITECT-ENGINEER			DMS PROJECT MANAGER			
Complete this Architect-Engineers Invoice Routing Transmittal (Form AE01) and AE Invoice (Form AE02). Forward the following forms to the DMS Project Manager: <input type="checkbox"/> Invoice Routing Transmittal (Form AE01) <input type="checkbox"/> AE Invoice (Form AE02) <input type="checkbox"/> Copies of ALL backup documentation <input type="checkbox"/> Copy of your Activation Letter or the payment portion of your Contract and ALL Additional Services letters. <input type="checkbox"/> Copy of AE's Certified Business Enterprise (CBE) Status Report (Form AE03).  Be sure to make and retain a copy for your files. Also see the DMS Professional Services Guide.  NOTE: Invoices not properly prepared as to form, content, or backup data will be returned for correction and resubmission.			<b>Review and approve this invoice promptly.</b> NOTE: Interest may be paid to the Architect-Engineer if there are delays in forwarding invoice to Client Agency for Vouchering. Forward to CA for vouchering as follow: Invoice Routing Transmittal and Original AE Invoice with backup documentation. Forward one (1) complete set that includes Transmittal and AE Invoice with backup to <a href="mailto:REDMBCPavApp@dms.fl.gov">REDMBCPavApp@dms.fl.gov</a> for filing. For Regional Offices (Outside of Tallahassee): Retain a copy of the Transmittal and AE Invoice with backup in your project file.  Per Florida CFO Memorandum No. 03 dated July 1, 2021, Building Construction is exempt from Contract Summary Form requirements.			
			Print Your Name Here			
			<b>CERTIFICATION STATEMENT - "I</b>			
			certify that I am the Contract Manager and the provided information is true and correct; the goods and services have been satisfactorily received and payment is now due. I understand that the office of the State Chief Financial Officer reserves the right to require additional documentation and/or to conduct periodic post-audits of any agreements."			
AE INITIALS	DATE FORWARDED	INVOICE AMOUNT (\$)	DATE RECEIVED	DATE FORWARDED	PROJECT MANAGER SIGNATURE	APPROVED INVOICE AMOUNT

**CLIENT AGENCY**

Client Agency: This invoice has been reviewed and approved by the DMS Project Manager for payment. After vouchering is complete, forward to Department of Financial Services (DFS) for payment. *The time period for processing and payment of this invoice is usually 15-20 calendar days, including mailing time or a percentage of interest may be paid to the Architect-Engineer.* Upon receiving warrant from DFS, mail warrant to Architect-Engineer and mail a copy of this completed Routing Transmittal to the DMS Project Manager and retain a copy for your files. If the invoice is altered during auditing by the Vouchering Agency or DFS, complete copies of the invoice and backup data as altered should be sent to the Architect-Engineer and DMS Project Manager. Please call the DMS Project Manager if you have any questions or comments concerning this invoice.

Date Client Agency Received			Date Financial Services Received			
<b>FOR VOUCHER</b>			<b>FOR WARRANT</b>			
VOUCHER NUMBER	TRANSACTION DATE	AMOUNT (\$)	DATE WARRANT FORWARDED	WARRANT NUMBER	WARRANT DATE	AMOUNT (\$)

DMS Form AE01 Revised 02/2024

This form may be obtained at:  
[http://dms.myflorida.com/business\\_operations/real\\_estate\\_development\\_management/building\\_construction/forms\\_and\\_documents](http://dms.myflorida.com/business_operations/real_estate_development_management/building_construction/forms_and_documents)



**EXHIBIT G**

**DESIGN PROFESSIONAL'S STATUS REPORT OF CERTIFIED BUSINESS ENTERPRISE  
(Example)**

**ARCHITECT-ENGINEER'S STATUS REPORT OF CERTIFIED  
BUSINESS ENTERPRISE (CBE) SUBCONTRACTORS**



DMS Project Number: \_\_\_\_\_  
 DMS Project Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City/State: \_\_\_\_\_  
 Phone/Email: \_\_\_\_\_  
 Contract Amount: \_\_\_\_\_  
 Provider's Invoice # \_\_\_\_\_  
 Date: \_\_\_\_\_

**CERTIFIED BUSINESS ENTERPRISE (CBE) SUBCONTRACTORS**

Only complete this form if the Primary Vendor is NOT certified by the Office of Supplier Diversity (OSD) AND the Subcontractor is a woman-, veteran- and/or minority-owned business enterprise.  
 \*Include consultants, sub-consultants, surveyors, soils testing companies, blueprint shops, travel agents, etc. who provide services on this project.

*Non-Certified Primary Vendor Name	Primary Vendor FEIN #	Primary Vendor Payment Amount	Primary Vendor Invoice Number	*CBE Subcontractor Name (Must be certified by OSD)	*CBE Code	Description of Service	CBE Vendor Payment Amount
<b>TOTALS</b>							

<sup>1</sup>OSD Certification Status: Check certification status using the OSD Certified Businesses Directory at <https://osd.dms.myflorida.com/directories-of-myflorida/marketplace> or the MEMP Vendor Information Portal at <https://vendor.myfloridamarketplace.com>.

<sup>2</sup>CBE Codes: N - African American, Non-Certified; H - African American, Certified; O - Hispanic, Non-Certified; I - Hispanic, Certified; J - Asian American business, Certified; K - Native American, Certified; M - Women Owned, Certified; W - Service-Disabled Veteran Business Enterprise, Certified

The State of Florida's Office of Supplier Diversity (OSD) certifies woman-, veteran-, and minority-owned businesses for free. If a subcontractor is a woman-, veteran-, or minority-owned business that is not certified by the State of Florida, refer them to OSD to learn more about the benefits of this free certification. [www.dms.myflorida.com/osd](http://www.dms.myflorida.com/osd) or 850-487-0915

**INCLUDE THIS FORM WITH DMS FORM AE02**

DMS Form AE03 Revised 10/2023

This form may be obtained at: [http://dms.myflorida.com/business\\_operations/real\\_estate\\_development\\_management/building\\_construction/forms\\_and\\_documents](http://dms.myflorida.com/business_operations/real_estate_development_management/building_construction/forms_and_documents)

# EXHIBIT H OWNER'S CERTIFICATE OF PARTIAL PAYMENT (Example)



## OWNER'S CERTIFICATE OF PARTIAL PAYMENT

Contractor Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Request No.: \_\_\_\_\_  
For Period Starting: \_\_\_\_\_ Ending: \_\_\_\_\_

Contractor Federal I.D. No.: \_\_\_\_\_  
Architect-Engineer Name: \_\_\_\_\_

DMS Project No.: \_\_\_\_\_  
DMS Project Name: \_\_\_\_\_

Base Contract Calendar Days: \_\_\_\_\_  
Adjusted Days by Change Order: \_\_\_\_\_  
Revised Contract Days: \_\_\_\_\_  
Elapsed Days to Date: \_\_\_\_\_  
Net Days Remaining: \_\_\_\_\_  
Estimated Days Ahead (+) or Behind (-): \_\_\_\_\_

Federal Unique Identifier (ARPA): \_\_\_\_\_

Approved Change Orders (Attach additional pages if required)			
CO#	\$ AMOUNT	CO#	\$ AMOUNT
01	\$ 0.00	11	\$ 0.00
02	\$ 0.00	12	\$ 0.00
03	\$ 0.00	13	\$ 0.00
04	\$ 0.00	14	\$ 0.00
05	\$ 0.00	15	\$ 0.00
06	\$ 0.00	16	\$ 0.00
07	\$ 0.00	17	\$ 0.00
08	\$ 0.00	18	\$ 0.00
09	\$ 0.00	19	\$ 0.00
10	\$ 0.00	20	\$ 0.00
Total Net Change Orders \$		\$ 0.00	

Original Contract Sum:	
Change Orders (Net):	
Contract Sum to Date:	\$ 0.00
Work Completed to Date:	
Materials Stored:	
Total Completed & Stored:	\$ 0.00
Less Retainage: %	
TOTAL:	
Less Previous Certificates:	
Balance to Finish:	
<b>THIS CERTIFICATE PAY THIS AMOUNT \$</b>	
Attached to this Certificate of Partial Payment the separate required Form CM05- "CM's Certified Business Enterprises Monthly Status Report of Partial Payment"	
TOTAL PAID THIS CERTIFICATE TO MBE: \$	

**CERTIFICATION BY THE CONTRACTOR:** 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 contractor by the Owner. Further, I agree to promptly pay each materialman, 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.

CONTRACTOR \_\_\_\_\_ By: \_\_\_\_\_  
(Contractor must sign in the presence of a Notary) (Type Name)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_ The foregoing instrument was acknowledged before me by means of  
 physical presence or  online notarization this: \_\_\_\_\_ (date)

by \_\_\_\_\_ of \_\_\_\_\_  
(name of officer or agent, title of officer or agent) (name of corporation acknowledging)

a \_\_\_\_\_ corporation, on behalf of the corporation. He/she is personally known to me or has produced  
(state or place of incorporation) as identification. \_\_\_\_\_ (Signature of Notary)

(Name typed printed or stamped)

**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 observed 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:**

Per CFO Memorandum No. 01 (2012-2013) dated July 26, 2012, Building Construction is exempt from Contract Summary Form requirements.  
**CERTIFICATION STATEMENT:** "I \_\_\_\_\_ certify that I am the Contract Manager and the provided information is true and correct, the goods and services have been satisfactorily received and payment is now due. I understand that the office of the State Chief Financial Officer reserves the right to require additional documentation and/or to conduct periodic post-audits of any agreements."

Owner's Project Manager \_\_\_\_\_ Date: \_\_\_\_\_

DMS Form CM03 Revised 10/2023

Form on website: [http://dms.myflorida.com/business\\_operations/real\\_estate\\_development\\_management/building\\_construction/forms\\_and\\_documents](http://dms.myflorida.com/business_operations/real_estate_development_management/building_construction/forms_and_documents)

**EXHIBIT I**

**ACTIVATION LETTER FOR CONTINUING CONTRACTS**

(Example)



**Real Estate Development and Management**

4050 Esplanade Way  
Tallahassee, FL 32399-0950  
850-488-2074

**Ron DeSantis, Governor**  
Pedro Allende, Secretary

Date

RE: MSFM-XXX  
Project Name  
Location

Continuing Contract Identifier: CM-XXX  
FEID:  
Continuing Contract: Activation No. XXX  
State FLAIR Code:

Under the terms of our Central, Architectural, Continuing Contract, you are hereby authorized to perform the Design, Bidding, and Construction Administration Services in accordance with your proposal dated XXX. Your lump sum fee for these services is \$XXX and shall be paid as follows:

<u>Task – Basic Services</u>	<u>Days</u>	<u>Payment Amount</u>
• Receipt of Activation Letter or Notice to Proceed	XX	
• At Approval Design Development Construction Documents	XX	\$XXX
• At Approval of 100% Construction Documents	XX	\$XXX
• Receipt of Bids (Includes optional pre-bid meeting)		\$XXX
• Construction Administration (Payment against this sum		
• to be made in proportion to payments made to Contractor)		\$XXX
TOTAL		\$XXX

The construction budget for this project as defined in Article 8.1 of our Agreement is estimated at \$XXX. In addition to the above Basic Services the Additional Services shown in Attachment I for the total amount of \$XXX are hereby authorized. The total fees for this project are not to exceed \$XXX.

During construction, it is agreed that your planned periodic inspections shall be as shown on Attachment I. Please continue your efforts under the direction of our Project Manager, Prince Winston, and attach a copy of this authority to each invoice submitted.

Sincerely,

Approved

Contracts Administrator  
Contracts Section

By: \_\_\_\_\_  
Brian Fienemann, Director  
Real Estate Development and Management

cc: DMS Project Manager  
DMS, Fiscal

[www.dms.MvFlorida.com](http://www.dms.MvFlorida.com)

4050 Esplanade Way, Suite 335/Tallahassee, Florida/850-488-6233

## EXHIBIT J

### STATUS REPORT (Example)

Department of Management Services  
Division of Real Estate Development and Management  
**STATUS REPORTS**

#### GENERAL REQUIREMENTS:

The Agreement between Owner and Architect-Engineer establishes the requirement that the Design Professional prepare and deliver to the Department of Management Services, Division of Real Estate Development and Management, on or before the fifth day of each month, a status report describing in detail the progress of the project as of the last day of the preceding month. The report should encompass progress made, any critical items needing attention, or areas, which might cause future delay. The report shall be detailed enough to provide a synopsis of the project to date.

The status reports will be submitted to the Project Manager with copies to the Client Agency and the Bureau Chief of the Division of Real Estate Development and Management. These reports shall be consecutively numbered beginning with the first report submitted after the Design Professional's Notice to Proceed. During design, the numbers shall be preceded by the prefix "D."

Commencing with the first report submitted after the NTP for construction is given, the reports should continue the consecutive numbering previously established with the prefix changed to "C." Reports shall not terminate until receipt of the final professional payment.

The Design Professional should distribute copies of the report to federal representatives and other agencies when directed by the Project Manager.

#### PREPARATION:

The format for the Construction Status Report and the Design Status Report shall be copied on the Design Professional's letterhead. All items and phrases shown in parenthesis are instructional and shall not be copied on the report. Sufficient space for each item shall be allowed in order to project the necessary information. Consecutively number each page of each report.

Each report submitted, shall be signed, dated, and sealed by the Professional of Record.





**EXHIBIT J - STATUS REPORT - (Example)**  
continued

(THIS FORM TO BE COMPLETED ON THE DESIGN PROFESSIONAL'S LETTERHEAD)

**Construction Status Report**

TO: (Name)  
(Project Manager)  
(Address)

RE: CONSTRUCTION STATUS REPORT NUMBER: C-  
For the Month of: (Insert Applicable Month)  
Project Number: (Insert Applicable Numbers)  
Project Title: (Insert Applicable Title)

CONTRACTOR: (Name)  
(Address)

CONTRACT STATUS:

Notice to Proceed Date: _____	TIME	SUBSTANTIAL
Contract Sum:	<u>CALENDAR DAYS</u>	<u>COMPLETION DATE</u>
\$ _____ Original Contract	_____	_____
\$ _____ Change Orders to Date	_____	_____
\$ _____ Current Contract	_____	_____

Percent Work Scheduled to Be Completed \_\_\_\_\_ %  
Percent Contract Time Elapsed \_\_\_\_\_ %  
Percent Work Actually Completed \_\_\_\_\_ %  
Percent Ahead /Behind \_\_\_\_\_ %

DATE - Substantial Completion Actual: \_\_\_\_\_ Days to Final Completion: \_\_\_\_\_  
DATE - Scheduled Final Completion: \_\_\_\_\_ DATE - Actual Final Completion: \_\_\_\_\_

PENDING CHANGES:

<u>Item:</u>	<u>C.O. #:</u>	<u>Amount:</u>	<u>Time:</u>	<u>Status:</u>
--------------	----------------	----------------	--------------	----------------

WORK STATUS: (General description of work being performed and its overall progress. List any factors contributing to failure to meet the construction schedule)

CONTRACT DEFICIENCIES OBSERVED: (Performance of Requirements under the General Conditions. A brief statement if Contractor is not complying with the requirements of the contract, item each deficiency)

DEFICIENCY CORRECTION: (List action by Contractor to correct deficiencies itemized in last report. If corrective action has not been taken, give explanation)

CONSTRUCTION STATUS REPORT:

<u>Site Visits</u>	<u>Name:</u>	<u>Number of Site Visits</u>
Professional of Record:		<u>This Month:</u>
Architect Registered:		
Structural Engineer (PE):		
Mechanical Engineer (PE):		
Electrical Engineer (PE):		
Other Staff (Identify):		

Date: \_\_\_\_\_ Design Professional: \_\_\_\_\_  
(Signature)

\_\_\_\_\_ (Typed Name)

\_\_\_\_\_ (Title)

Cc: Bureau Chief of the Division of Real Estate  
Development and Management  
Client Agency Representative

FORM-05  
Revised 04/21

# EXHIBIT K

## FINAL PAY REQUEST CHECKLIST (Example)



Real Estate Development and Management  
4050 Esplanade Way  
Tallahassee, FL 32399-0950  
850-488-2074

Ron DeSantis, Governor

### FINAL PAY REQUEST CHECKLIST

Project Number: \_\_\_\_\_  
Project Name: \_\_\_\_\_  
Substantial Completion Date: \_\_\_\_\_  
Final Punch List Inspection Date: \_\_\_\_\_

The following items need to be submitted with the Contractor's request for Final Payment:

- Form CM02 – RUSH Contractor's Payment Routing Submittal (revised 10/23)
- Form CM03 – Pay Request - 1 electronic copy (Revised 10/23)
- Final Schedule of Contract Values
- Consent of Surety to Final Payment (bonded projects only)
- Power of Attorney from Surety for Release of Final Payment (bonded projects only)
- Notice of Release of Lien from each subcontractor who has filed Notices to Owner
- Form CM07 - Contractor's Affidavit of Contract Completion - 1 electronic copy (Revised 9/23)
- Form AE11 - Certificate of Contract Completion 1 completed by A/E - 1 electronic copy (Revised 10/23)
- Contractor's Guarantee of Construction for one year from the date of Substantial Completion
- List of Subcontractors, with addresses, telephone numbers and email addresses
- Manufacturer's warranties as required by specifications in the name of the State or Client Agency
- Fully executed Roof Warranty, if applicable, in the name of the State or Client Agency
- Shop drawings and brochures
- Attendance lists of training of State Agency personnel in the operation of new equipment for each system:
- HVAC, controls, fire alarm, etc.
- Submission of all Operation & Maintenance Manuals (1 hard copy; 1 electronic copy)
- Certificate of Occupancy from Building Permit Authority
- Form AE14 - Certificate of Specification No Prohibited Hazardous Materials (Revised 10/23)
- Form AE18 - ADA Compliance Certificate (Revised 10/23)
- Submission of all contractually required attic stock and spare parts.
- Submission of "As-built" plans and specifications (1 electronic copy)
- Submission of CAD and PDF files of "As-Built" Documents
- Submission of Construction Documents (1 electronic copy) – Verify if Facility Manager or Client Agency request a hard copy.
- Form PD27 - Sustainable Design Confirmation (1 electronic copy) (Revised 10/23)

**Please submit an electronic copy of all close-out documents, in addition to the hard copies.**

Contractor's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Project Architect/Engineer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

DMS Project Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

DMS Form AE10 Revised 10/2023

## EXHIBIT L

### FEDERAL FUNDING INFORMATION

If this Agreement contains Federal Grant Funding:

Federal Award Identification Number (FAIN): SLFRP0125

#### STATE & FEDERAL AUTHORIZATIONS FOR FUNDING:

- Section 602(b) of the Social Security Act, as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), Coronavirus State Fiscal Recovery Fund (SFRF).
- Section 152 of the 2021-2022 General Appropriations Act (Chapter 2021-36, Laws of Florida).
- Section 197 of the 2022-2023 General Appropriations Act (Chapter 2022-156, Laws of Florida).

#### APPLICABLE REGULATIONS:

- Treasury Final Rule (RIN 1505-AC77) 31 C.F.R. Part 35.
- Uniform Guidance (Section 2 Code of Federal Regulations Part 200).
- Assistance Listing Number (formerly known as CFDA Number): 21.027, Coronavirus State and Local Fiscal Recovery Funds.

#### PERFORMANCE PERIOD:

- All funds must be obligated (i.e., executed agreements/change orders) by December 31, 2024.
- All funds must be fully expended by December 31, 2026.

## EXHIBIT M

### STATE FISCAL RECOVERY FUND REQUIREMENTS FOR CONTRACT TERMS AND CONDITIONS

1. Subrecipient agrees to comply with the requirements of section 602 of the Social Security Act (the Act), regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
2. Costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405.
3. Maintenance of and Access to Records
  - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
  - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
  - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
4. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
5. Conflicts of Interest. Subrecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.
6. 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The following 2 CFR Policy requirements do not apply to the SFRF program:
  - o 2 CFR Part 200, Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards
    - 2 C.F.R. § 200.204 (Notices of Funding Opportunities);
    - 2 C.F.R. § 200.205 (Federal awarding agency review of merit of proposal);
    - 2 C.F.R. § 200.210 (Pre-award costs); and
    - 2 C.F.R. § 200.213 (Reporting a determination that a non-Federal entity is not qualified for a Federal award).
  - o 2 CFR Part 200, Subpart D, Post Federal; Award Requirements
    - 2 C.F.R. § 200.305 (b)(8) and (9) (Federal Payment);
    - 2 C.F.R. § 200.308 (revision of budget or program plan);
    - 2 C.F.R. § 200.309 (modifications to period of performance); and
    - 2 C.F.R. § 200.320(c)(4) (noncompetitive procurement).
7. Single Audit Act requirements – 2 CFR 200, Subpart F – Audit Requirements of the Uniform Guidance
  - o Subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements. (See Compliance Supplement #21.027)
8. All contracts in excess of \$100,000 with respect to capital expenditures or infrastructure (i.e., EC 5) that involve employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards.
9. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170 (Appendix A).
10. SAM.gov Requirements – All eligible subrecipients are required to have an active registration with the System for Award Management (“SAM”) (<https://www.sam.gov>) pursuant to 2 CFR Part 25.
11. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
12. New Restrictions on Lobbying, 31 C.F.R. Part 21.
13. Recipient Integrity and Performance Matters, 2 CFR Part 200, Appendix XII to Part 200.
14. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

## EXHIBIT M - Continued

### STATE FISCAL RECOVERY FUND REQUIREMENTS FOR CONTRACT TERMS AND CONDITIONS

15. Statutes and regulations prohibiting discrimination applicable to this award, without limitation, include:
  - a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin.
  - b. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
  - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity.
  - d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities.
  - e. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services.
16. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Subrecipient] by the U.S. Department of the Treasury."
17. Hatch Act. (5 U.S.C. 1501-1508 and 7324-7328), as applicable, limits certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
18. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
19. Protections for Whistleblowers.
  - a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
  - b. The list of persons and entities referenced in the paragraph above includes the following:
    - i. A member of Congress or a representative of a committee of Congress;
    - ii. An Inspector General;
    - iii. The Government Accountability Office;
    - iv. A Treasury employee responsible for contract or grant oversight or management;
    - v. An authorized official of the Department of Justice or other law enforcement agency;
    - vi. A court or grand jury; or vii. A management official or other employee of Subrecipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
  - c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
20. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
21. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.
22. States must ensure that every contract includes the applicable contract clauses required by 2 CFR section 200.327 (Appendix II to Part 200).

## Exhibit N

### AUDIT REQUIREMENTS FOR AWARDS OF FEDERAL FINANCIAL ASSISTANCE

The administration of resources awarded by the Owner to the Construction Manager may be subject to audits and/or monitoring by the Owner, as described in this Exhibit.

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#### MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by Owner staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this Agreement, the Construction Manager agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by the Owner. In the event the Owner determines that a limited scope audit of the Construction Manager is appropriate, the Construction Manager agrees to comply with any additional instructions provided by Owner staff to the Construction Manager regarding such audit. The Construction Manager further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

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#### AUDITS

##### Part I: Federally Funded

This part is applicable if the Construction Manager is a state or local government or a nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A Construction Manager that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. The section entitled AWARDS AND COMPLIANCE below lists the federal resources awarded through the Owner by this Agreement. In determining the federal awards expended in its fiscal year, the Construction Manager shall consider all sources of federal awards, including federal resources received from the Owner. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the Construction Manager conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the Construction Manager shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A Construction Manager that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the Construction Manager expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Construction Manager resources obtained from other than federal entities).

##### Part II: Report Submission

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR §200.512, by or on behalf of the Construction Manager directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.36 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

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## AWARDS AND COMPLIANCE

### Federal Resources Awarded to the Construction Manager Pursuant to this Agreement Consist of the Following:

*Note: If the resources awarded to the Construction Manager represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded.*

1. Federal Program: \_\_\_\_\_  
Federal Awarding Agency: \_\_\_\_\_  
Assistance Listing Title: \_\_\_\_\_  
Assistance Listing Number: \_\_\_\_\_  
Amount: \$ \_\_\_\_\_

2. Federal Program B:  
*List federal agency, Catalog of Federal Domestic Assistance title and number, and \$ (amount).*

### Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Agreement are as Follows:

*Note: If the resources awarded to the Construction Manager represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below.*

1. Federal Program A:  
*List applicable compliance requirements as follows:*
  - a. *[Provide the specific compliance requirements and/or cite where else they are set forth—e.g., The Construction Manager shall perform all of its obligations under (i) this Agreement, including Exhibit M (Federal Funding Information) and Exhibit N (State Fiscal Recovery Fund Requirements for Contract Terms and Conditions) attached hereto, and (ii) any statutes, rules, regulations, orders, or other laws applicable or related to this Agreement or the federal or state funds provided hereunder.]*
2. Federal Program B:  
*List applicable compliance requirements as follows:*
  - a. *First applicable compliance requirement (e.g., what services or purposes resources must be used for).*
  - b. *Second applicable compliance requirement (e.g., eligibility requirements for Construction Managers of the resources).*
  - c. *Etc.*

*Note: Instead of listing the specific compliance requirements as shown above, the state awarding agency may elect to use language that requires the Construction Manager to comply with the requirements of applicable provisions of specific laws, rules, regulations, etc. For example, for Federal Program A, the language may state that the Construction Manager must comply with specific laws, rules, regulations, etc., that pertains to how the awarded resources must be used or how eligibility determinations are to be made. The state awarding agency, if practical, may want to attach a copy of the specific laws, rules, regulations, etc., referred to.*

2. Any reports, management letters, or other information required to be submitted to the Owner pursuant to this Agreement shall be submitted timely in accordance with 2 CFR §200.512.
3. Construction Manager, when submitting financial reporting packages to the Owner for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements should indicate the date that the reporting package was delivered to the Construction Manager in correspondence accompanying the reporting package.

**Part III: Record Retention**

The Construction Manager shall retain sufficient records demonstrating its compliance with the terms of the award(s) and this Agreement for a period of (i) five years from the date the audit report is issued or (ii) six state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow the Owner, or its designee, the CFO, or Auditor General access to such records upon request. The Construction Manager shall ensure that audit working papers are made available to the Owner, or its designee, the CFO, or Auditor General upon request for a period of six years from the date the audit report is issued, unless extended in writing by the Owner. In addition, if any litigation, claim, negotiation, audit, or other action involving the records and/or papers has been started prior to the expiration of the controlling period as identified above, the records and/or papers shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer.