



REAL ESTATE DEVELOPMENT AND MANAGEMENT  
CONSTRUCTION PROJECT AGREEMENT  
BETWEEN OWNER AND CONTRACTOR

CONTRACT NO: To Be Determined

RFQ NO: RFQ-REDM-2425-02

STATE FLAIR CODE: To Be Determined

DMS CONTINUING  
CONTRACT IDENTIFIER: To Be Determined

PROJECT NAME AND LOCATION: To Be Determined

CONTRACTOR: To Be Determined

ARCHITECT-ENGINEER: To Be Determined

Ron DeSantis  
Governor

Pedro Allende  
Secretary

## TABLE OF CONTENTS

ARTICLE	DESCRIPTION	PAGE
1.0.0	THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT .....	4
1.1.0	The Construction Team .....	4
1.2.0	Extent of Agreement .....	4
1.3.0	Definitions .....	4
1.4.0	Owner's Construction Budget (section removed) .....	6
2.0.0	CONTRACTOR'S SCOPE OF WORK .....	6
2.1.0	Project Management Information System (PMIS) (section removed) .....	6
2.1.1	Narrative Reporting Subsystem (section removed) .....	7
2.1.2	Scheduled Control Subsystem .....	7
2.1.3	Cost Control Subsystem (section removed) .....	8
2.1.4	Project Accounting Subsystem .....	8
2.2.0	Preconstruction Phase (section removed) .....	8
2.3.0	Construction Phase .....	8
2.4.0	Direct Purchase Materials (section removed) .....	11
3.0.0	OWNER'S RESPONSIBILITIES .....	11
3.1.0	Owner's Information .....	11
3.2.0	Owner's Representative .....	11
3.3.0	Architect and Engineer's Agreement .....	11
3.4.0	Site Survey and Reports .....	11
3.5.0	Approvals and Easements .....	11
3.6.0	Legal Services .....	11
3.7.0	Drawings and Specifications .....	11
3.8.0	Cost of Surveys and Reports .....	11
3.9.0	Project Fault Defects .....	11
3.10.0	Funding .....	12
3.11.0	Lines of Communication .....	12
3.12.0	Lines of Authority .....	12
3.13.0	Permitting and Code Inspections .....	12
3.14.0	Ownership of Project Documents .....	12
3.15.0	Owner Approval Rights .....	12
4.0.0	PERMITTING AND INSPECTION .....	12
4.1.0	Building Permits .....	12
4.2.0	Code Inspections .....	12
5.0.0	SUBCONTRACTS .....	13
5.1.0	Definition .....	13
5.2.0	Proposals .....	13
5.3.0	Required Subcontractors' Qualifications and Subcontract Conditions .....	13
5.3.1	Subcontractual Relations .....	13
5.3.2	Subcontract Requirements .....	13
5.4.0	Responsibilities for Acts and Omissions .....	13
6.0.0	SCHEDULE, TIME OF COMMENCEMENT, AND SUBSTANTIAL COMPLETION .....	14
6.1.0	Dates for Project Substantial Completion, Project Final Completion, Owner Occupancy .....	14
6.2.0	Owner Occupancy and Warranties .....	14
6.3.0	Liquidated Damages .....	14
7.0.0	GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION (entire section removed) ...	14
8.0.0	CONTRACTOR'S FEE (entire section removed) .....	14
9.0.0	COST OF THE PROJECT .....	15
9.1.0	Definition .....	15

## TABLE OF CONTENTS (continued)

9.2.0	Direct Cost Items .....	15
9.3.0	Costs Not to Be Reimbursed (section removed) .....	16
10.0.0	CHANGES IN THE PROJECT .....	16
10.1.0	Change Orders .....	16
10.2.0	Claims for Additional Cost or Time .....	17
10.3.0	Minor Changes in The Project .....	17
10.4.0	Emergencies .....	17
11.0.0	DISCOUNTS AND PENALTIES (section removed) .....	17
12.0.0	PAYMENTS TO THE CONTRACTOR .....	17
12.1.0	Monthly Payments .....	17
12.2.0	Supporting Documentation .....	18
12.3.0	Final Payment .....	18
12.4.0	Payments to Subcontractors .....	18
12.5.0	Delayed Payments by Owner .....	19
12.6.0	Payments for Materials and Equipment .....	19
12.7.0	Withholding Payments to Subcontractors .....	19
12.8.0	Florida Statutes Regarding Prompt Payment Requirements .....	19
13.0.0	INSURANCE AND BONDS .....	19
13.1.0	Indemnity .....	19
13.2.0	Contractor's Insurance .....	19
13.3.0	Insurance Waiver of Subrogation .....	20
13.4.0	Bonds .....	20
14.0.0	TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO PERFORM CONTRACTOR'S OBLIGATION .....	21
14.1.0	Termination by the Contractor .....	21
14.2.0	Owner's Right to Perform Contractor's Obligations and Termination By Owner For Cause .....	21
14.3.0	Termination by Owner Without Cause .....	22
15.0.0	ASSIGNMENT AND GOVERNING LAW .....	22
15.1.0	Assignment Consent .....	22
15.2.0	Governing Laws .....	22
16.0.0	NOTICE OF CLAIM; WAIVER OF REMEDIES; NO DAMAGES FOR DELAY .....	22
16.1.0	Notice of Claim .....	22
16.2.0	Claims .....	22
16.3.0	Dispute Resolution .....	24
16.4.0	Exclusive Remedy for Delays .....	24
16.5.0	Mutual Waiver .....	24
16.6.0	Venue and Mediation .....	24
17.0.0	MISCELLANEOUS .....	24
17.1.0	Harmony .....	24
17.2.0	Apprentices .....	25
17.3.0	Invoices .....	25
17.4.0	Contractor's Project Records .....	25
17.5.0	Certified Business Enterprise Participation .....	25
17.6.0	Contractor's Payment Rights .....	25
17.7.0	Public Entity Crime Information Statement .....	25
17.7.1	Criminal History Background Checks .....	25
17.8.0	Unauthorized Aliens .....	25
17.8.1	Unauthorized Aliens Checks Through E-Verify .....	26
17.9.0	Discrimination; Denial or Revocation for The Right to Transact Business	

	with Public Entities .....	26
17.10	Appropriation Contingency .....	26
17.11	Assignment .....	26
17.12	Employment of State Residents .....	26
17.13	Posting of Job Openings.....	26
17.14	Confidentiality of Building Plans .....	26
17.15	Current Funding Limitations.....	26
17.16	Electronic Execution .....	27
17.17	Notices and Electronic Mail Capabilities.....	27
17.18	Public Inquiries.....	27
17.19	Public Records.....	27
17.20	Cooperation with the Inspector General and Audits .....	28
17.21	Sovereign Immunity .....	28
17.22	Prohibition Against Contingency Fees.....	28
17.23	Suspended Vendor Lists.....	28
17.24	Covid19.....	28
17.25	RESPECT .....	28
17.26	PRIDE .....	29
17.27	Contractor Compliance .....	29
18.0.0	CONTINUING CONTRACTUAL SERVICES.....	29
19.0.0	FEDERAL FUNDS APPLICABILITY (section removed) .....	30
	Signature Page .....	31

**EXHIBITS**

<b>EXHIBIT</b>	<b>DESCRIPTION</b>	<b>PAGE</b>
A	Construction Team Assigned Representatives .....	32
B	Owner's Construction Budget .....	33
C	Contractor's Personnel to Be Assigned During Preconstruction Phase.....	34
D	Contractor's Personnel to Be Assigned During Construction Phase.....	35
E	Certificate of Substantial Completion by Contractor (Example) .....	36
F	Contractor's Affidavit of Contract Completion (Example) .....	37
G	Owner's Certificate of Partial Payment (Example) .....	39
H	Final Pay Request Checklist (Example) .....	40
I	Contractor's Status Report of Certified Business Enterprise (CBE) Subcontractors (Example) .....	41
J	Notice to Proceed (Example).....	42
K	Contractor's Partial Payment Routing Transmittal.....	43
L	Activation Letter for Continuing Contracts .....	44

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)

**CONSTRUCTION PROJECT AGREEMENT  
BETWEEN OWNER AND CONTRACTOR**

This Agreement made this «Day» day of «Month» in the year Two Thousand «Year» by and between State of Florida, Department of Management Services, Division of Real Estate Development and Management (“Owner”), and

«CONTRNAME»  
«STATECORP»  
«CONTRSTREET»  
«CITYSTATEZIP»  
PHONE: «ContrPhone»,  
FEDERAL TAX I.D. NUMBER: «FEIDNum»

hereinafter called the “Contractor”. Owner and Contractor may be referred to herein individually as a “Party” or collectively as the “Parties.”

**ARTICLE 1  
THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT**

The Contractor accepts the relationship of trust and confidence established with the Owner by this Agreement, covenants with the Owner to furnish its best skill and judgment and to cooperate with the Architect-Engineer in furthering the interests of the Owner, and agrees to furnish efficient business administration and superintendence and 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.

1.1 **THE CONSTRUCTION TEAM** – The Contractor, the Owner, and the Architect-Engineer, called the "Construction Team", shall work jointly during design and through final construction completion and shall be available thereafter should additional services be required. The Architect-Engineer will provide leadership during the Preconstruction Phase with support from the Contractor and the Contractor shall provide leadership to the Construction Team on all matters relating to construction.

The specific representatives of the Construction Team are shown in Exhibit A attached hereto and made a part hereof by reference.

1.2 **EXTENT OF AGREEMENT** – This Agreement is for the completion of "Project «ProjNum», «ProjName», «ProjLocation», «ProjCityState»," entered into between the Owner and the Contractor, and supersedes any prior negotiations, representations, or agreements.

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 Owner and Contractor.

1.3 **DEFINITIONS**

Architect-Engineer – «AENAME», «AESTREET», «AECITYSTATEZIP», phone: «AEPHONE»

Client Agency – Client Agency is defined in Rule 60D-5.002, Florida Administrative Code, as the Agency for which the project is being constructed. The relationship between the Owner and the Client Agency is governed by Section 255.31, Florida Statutes, and by Rule 60D-5, Florida Administrative Code. If applicable to this Project, the Client Agency is Ownerentity».

Close-Out Documents – Those documents required from the Contractor to complete the Project. A list of Close-Out Documents is found in Exhibit H - Final Pay Request Checklist, attached hereto and made a part hereof by reference.

Construction Authorization – The term Construction Authorization shall mean a written work order based on a defined scope of work prepared by the Project Manager and issued to the Contractor. Construction Authorizations may be used by the Owner prior to the date of the Guaranteed Maximum Price Amendment and all work performed pursuant to Construction 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

Contractor. Any changes to the Construction Documents by the Contractor, the Architect-Engineer, or the Owner will be shared with the other parties.

Contractor – «ContrName», «StateCorp», «ContrStreet», «CityStateZip», phone: «ContrPhone». The Contractor, responsible for the Project, shall be the single point of interface for all trade bidders and contractors for the duration of the Project. For the purposes hereunder, the Contractor, including but not limited to its employees, contractors, and subcontractors, is an independent contractor, and is not and shall not by its performance hereunder be deemed or construed under any circumstance to be an employee, agent, representative, or servant of the Owner or the State of Florida.

Design Development Documents – The Design Development Documents consist of the 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/site work, and other such work as may be required. The Design Development Documents are prepared by the Architect-Engineer and submitted to the Owner who will supply the Design Development Documents to the Contractor. Any changes to the Design Development Documents by the Contractor, the Architect-Engineer, or the Owner will be shared with the other parties. The Design Development Documents are used by the Architect-Engineer to prepare the Construction Documents and the Estimate of Probable Project Construction Cost.

Estimate – The Contractor's latest estimate of probable project construction cost.

Owner – The State of Florida, Department of Management Services, Division of Real Estate Development and Management, acting through its Secretary or those persons designated by the Secretary to act in its behalf, as Agent pursuant to the Client Agency Agreement with the Department of Management Services, if applicable. The entity that will occupy, use, and own the project upon Substantial Completion. The funds with which the compensation for work performed in connection with the Project will be paid are under the control of the Owner, based on approval of each payment by the Division of Real Estate Development and Management. All duties of Owner hereinafter shall be performed by the Division of Real Estate Development and Management.

Owner's Representatives – The Project Manager and their superiors or designees.

Permitting Authority – The authorities with jurisdiction over the area in which the project is located.

Project – The Project is the total and sum of all work to be performed by Contractor and its subcontractors under this Agreement. The Project consists of all permitting, construction services and work, and code inspections necessary to fully complete "Project «ProjNum», «ProjName», «ProjLocation», «ProjCityState»," as contemplated in the Owner's Construction Budget identified in Exhibit B, attached hereto and made a part hereof by reference.

Project Manager – The person designated by the Owner to provide direct interface with the Contractor with respect to the Owner's responsibilities. Information identifying representatives for the Project may be found on Exhibit A - Construction Team Assigned Representatives, attached hereto and made a part hereof by reference.

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 Contractor is not responsible shall not be grounds to deny substantial Completion status.

1.4 OWNER'S CONSTRUCTION BUDGET – Section Removed

**ARTICLE 2  
CONTRACTOR'S SCOPE OF WORK**

2.1 PROJECT MANAGEMENT INFORMATION SYSTEM (PMIS) – Narrative Removed

2.1.1 Narrative Reporting Subsystem – Section Removed

2.1.2 Scheduled Control Subsystem

- (1) Master Project Schedule – Within thirty (30) days of award of this Agreement, the Construction Team shall submit a Master Project Schedule covering the planning and design approvals, construction, and Owner occupancy of the Project. This schedule will serve as the framework for the subsequent development of all detailed schedules. The Master Project Schedule shall be produced and updated monthly throughout the project by the Contractor.
- (2) Construction Schedule – Within thirty (30) days after the date of the Owner's issuance of a Notice to Proceed, the Contractor shall prepare and submit to the Architect-Engineer and Owner a Construction Schedule graphically depicting the activities contemplated to occur as a necessary incident to performance of the work required to complete the project. The Construction Schedule must show the sequence in which the Contractor proposes each such activity to occur and the duration of each such activity, otherwise known as the dates of commencement and completion, respectively.

An example of an acceptable form of such a Construction Schedule is contained in the U.S. Army Corps of Engineers' Regulation ER 1-1-11 entitled "Network Analysis System", a copy of which is available on the internet. Another form of Construction Schedule which provides the same kind of information and employs the same basic principles as illustrated in will be acceptable to the Owner; provided however, the Architect-Engineer shall determine whether the Construction Schedule developed and submitted by the Contractor meets the requirements stated above and such determination shall be binding on the Contractor. Failure of the Contractor to develop and submit a construction schedule as aforesaid shall be sufficient grounds for the Architect-Engineer to find the Contractor in substantial default and certify to the Owner that sufficient cause exists to terminate the Agreement or to withhold any payment.

Following development and submittal of the Construction Schedule, the Contractor shall submit an updated or revised Construction Schedule at the end of each calendar month until Substantial Completion is obtained. Circumstances may require the Contractor to update and/or revise the Construction Schedule to show the progress of the work; all events which have affected the progress of the work performed; and events which will affect the progress of the work to be performed in contrast with the planned progress of such work as depicted on the original Construction Schedule. Any updates or revisions must show all updates and/or revisions as reflected in previously submitted Construction Schedules. Each such update and/or revision to the Construction Schedule shall be submitted to the Architect-Engineer and Owner.

Failure of the Contractor to develop, update, revise, and submit the Construction Schedule shall be sufficient grounds for the Architect-Engineer to find the Contractor in substantial default and certify to the Owner sufficient cause exists to terminate the Agreement or to withhold payment to the Contractor.

- (3) The Contractor shall prepare and incorporate into the schedule data base, at the required intervals, the following schedules:
  - (a) Pre-Bid Schedules (Subnetworks) – The Contractor shall prepare a construction schedule for work encompassed in each bid package. The schedule shall be sufficiently detailed as to be suitable for inclusion in the bid package as a framework for contract completion by the successful bidder. It shall show the interrelationships between the work of the successful bidder and that of other subcontractors and shall establish milestones keyed to the overall master schedule.
  - (b) Subcontractor Construction Schedules (Subnetworks) – Upon the award of each sub-contract, the Contractor shall, jointly with the subcontractor, develop a schedule which is more detailed than the pre-bid schedule included in the specifications, taking into account the work schedule of the other subcontractors. The construction schedule shall include as many activities as necessary to make the schedule an effective tool for construction planning and for monitoring the performance of the subcontractor. The construction schedule shall also show pertinent activities for material purchase orders, manpower supply, shop drawing schedules, and material delivery schedules.
  - (c) Occupancy Schedule – The Contractor shall jointly develop with the Architect-Engineer and Owner a detailed plan, inclusive of punch lists pursuant to Section 255.077, Florida Statutes, final inspections,

maintenance training, and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Owner occupancy and for ensuring that all services are complete, satisfactory, and acceptable. The Occupancy Schedule shall be produced and updated monthly from its inception through final Owner occupancy.

2.1.3 Cost Control Subsystem – Section Removed

2.1.4 Project Accounting Subsystem – The operation of this subsystem shall enable the Construction Team to plan effectively and to monitor and control the funds available for the project, cash flow, costs, Change Orders, payments, and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, and amounts payable. This subsystem will be produced and updated monthly and includes the following reports which together will serve as a basic accounting tool and an audit trail. The Contractor will retain all project files in a manner consistent with proper accounting procedures that would be sufficient for an audit by the Owner for a period of five (5) years after final completion of the project. This report will also provide for accounting by building and site element.

- (1) Cost Status Report presenting the budget, estimate, and base commitment (awarded contracts and purchase orders) for any given contract or budget line item. It shall show approved Change Orders for each contract which when added to the base commitment will become the total commitment. Pending Change Orders will also be shown to produce the total estimated probable cost to complete the work.
- (2) Payment Status Report showing the value in place (both current and cumulative), the amount invoiced (both current and cumulative), the retained, the amount payable (both current and cumulative), and the balance remaining. A summary of this report shall accompany each pay request.
- (3) Detailed Status Report showing the complete activity history of each item in the project accounting structure. It shall include the budget, estimate, and base commitment figures for each contract. It shall give the Change Order history including Change Order numbers, description, proposed and approved dates, and the proposed and approved dollar amounts. It shall also show all pending or rejected Change Orders.
- (4) Cash Flow Spreadsheet showing the projected accumulation of cash payments against the project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments, if requested by the Owner.
- (5) Detailed Schedule of Values shall be maintained as necessary to supplement the operation of the project accounting subsystem. The detailed schedule of values will be used to provide construction cost accountability for general conditions work, on-site reimbursable expenses, and costs requiring accounting needs.

2.2 PRECONSTRUCTION PHASE – Section Removed with the exception of 2.2(7) Weather Protection.

- (7) Weather Protection – The Contractor shall ascertain what temporary enclosures of building areas should be provided and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. The Contractor shall submit to the Construction Team its recommendations as to needed requirements of this nature and as to the contract or contracts in which they should be included.

2.3 CONSTRUCTION PHASE

- (1) Contractor's Staff – The Contractor shall maintain sufficient off-site support staff and competent full-time staff at the Project site authorized to act on behalf of the Contractor to coordinate, inspect, and provide general direction of the work and progress of the subcontractors and shall provide no less than those personnel during the respective phases of construction that are set forth in Exhibit D to this agreement. The Contractor shall not change any of those persons named in Exhibit D unless mutually agreed to by the Owner and Contractor. In such case, the Owner shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.
- (2) Lines of Authority – The Contractor shall establish and maintain lines of authority for their personnel and shall provide this definition to the Owner and all other affected parties such as the code inspectors of the Permitting Authority, the sub-contractors, the Architect-Engineer, and the Owner's representatives, to provide general direction of the work and progress of the various phases and subcontractors. The Owner and Architect-Engineer may attend meetings between the Contractor and their subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Contractor to administer the subcontractor.



(3) Advertisement and Competitive Bidding Procedures – Section Removed

(4) Quality Control – The Contractor shall develop and maintain a program, acceptable to the Owner and Architect-Engineer, to assure quality control of the construction. The Contractor shall supervise the work of all subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and shall continue to exert their influence and control over each subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the work. Should disagreement occur between the Contractor, the Owner, or the Architect-Engineer over acceptability of work and conformance with the requirements of the specifications and plans, the Owner shall be the final judge of performance and acceptability.

(5) Subcontractor Interfacing – The Contractor shall be the single point of interface with all subcontractors for the Owner and its agents and representatives, including the Architect-Engineer. The Contractor shall negotiate all Change Orders, field orders, and requests for proposals with all affected subcontractors and shall review the costs of those proposals and advise the Owner and Architect-Engineer of their validity and reasonableness, acting in the Owner's best interest prior to requesting approval of each from the Owner.

Before any work is begun on any Change Order, a written authorization from the Owner must be issued. However, when health and safety are threatened, the Contractor shall act immediately to remove the threat to health and safety. The Contractor shall also carefully review all shop drawings and then forward the same to the Architect-Engineer for review and actions. The Architect-Engineer will transmit the shop drawings back to the Contractor who will then issue the shop drawings to the affected subcontractor for fabrication or revision.

The Contractor shall maintain a suspense control system to promote expeditious handling. The Contractor shall request the Architect-Engineer to make interpretations of the drawings or specifications requested by the subcontractors and shall maintain a suspense control system to promote timely response. The Contractor shall advise the Project Manager and Architect-Engineer when timely response is not occurring on any of the above.

(6) Permits – The Contractor shall secure all necessary building permits from the Permitting Authority and all necessary utility connection permits, the cost of which will be considered a direct cost item.

(7) Job Site Requirements

(a) The Contractor shall provide for each of the following activities as a part of the Construction Phase Fee:

1. Maintain a log of daily activities, including manpower records, weather, delays, major decisions, etc.
2. Maintain a roster of companies on the project with names and telephone numbers of key personnel.
3. Establish and enforce job rules governing parking, clean-up, use of facilities, and worker discipline.
4. Provide labor relations management for a harmonious, productive project.
5. Provide a safety program for the project to meet OSHA requirements. Monitor for subcontractor compliance without relieving the subcontractor of responsibilities to perform work in accordance with best acceptable practices.
6. Provide a quality control program as developed under Article 2.3(4) hereinabove.
7. Provide miscellaneous office supplies which are used by the Contractor's own forces to support the construction efforts.

(b) If applicable, the Contractor shall provide personnel and equipment or shall arrange for separate subcontracts to provide each of the following as a direct cost item:

1. Schedule the services of independent testing laboratories and provide the necessary testing of materials to ensure conformance to contract requirements.
2. The printing and distribution of all required bidding documents and shop drawings, including the sets required by the Permitting Authority's inspectors.

(8) Job Site Administration – The Contractor shall provide as part of the Construction Phase Fee job site administrative functions during construction to assure proper documentation, including but not limited to the following:

(a) Job Meetings – Hold weekly progress and coordination meetings to provide for an easy flowing project. Review and implement revisions to the Construction Schedule. Monitor and promote safety

requirements. In addition, regular project status meetings will be held between the Architect-Engineer, Owner, and Contractor either biweekly or monthly, whichever is designated by the Project Manager.

Use the job site meeting as a tool for preplanning of work and enforcing schedules and for establishing procedures, responsibilities, and identification of authority for all to clearly understand.

Identify party or parties responsible for follow up on any problems, delay items, or questions and the course for solution(s). Revisit each pending item at each subsequent meeting until resolution is achieved. Require all present to make any problems or delaying event known for appropriate attention and resolution.

- (b) Shop Drawing Submittals and Approvals – Provide staff to check shop drawings and to implement procedures for submittal and transmittal to the Architect-Engineer of such drawings for action and closely monitor their submittal and approval process. Implement procedures and assure timely submittals, expedite processing approvals, and the return of shop drawings and samples.
- (c) Material and Equipment Expediting – Provide staff to closely monitor material and equipment deliveries, critically important checking, and follow-up procedures on supplier commitments of all subcontractors. Coordinate and expedite critical ordering including but not limited to direct tax saving purchases, delivery of materials, work sequences, inspection and testing, and labor allocation.
- (d) Payments to Subcontractors – Develop and implement a procedure for review, processing, and payment of applications by subcontractors for progress and final payments.
- (e) Document Interpretation – Refer all questions for interpretation of the documents prepared by the Architect-Engineer to the Architect-Engineer.
- (f) Reports and Project Site Documents – Record the progress of the project. Submit written progress reports to the Owner and the Architect-Engineer including information on the subcontractor's work and the percentage of completion. Keep a daily log available to the Owner, the Architect-Engineer, and the Permitting Authority inspectors.
- (g) Subcontractor's Progress – Prepare periodic punch lists for subcontractor's work including unsatisfactory or incomplete items and schedules for their completion. The Contractor will review and coordinate each subcontractor's work.
- (h) Substantial Completion – Ascertain when the work or designated portions thereof are ready for the Architect-Engineer's substantial completion inspection. From the Architect-Engineer's list of incomplete or unsatisfactory items, prepare a schedule for their completion indicating completion dates for the Owner's review. If the Contractor wishes the Architect-Engineer to conduct a pre-substantial completion inspection in conjunction with its own forces, the Architect-Engineer will prepare the pre-substantial punch list from which the Contractor will develop a completion schedule. The Architect-Engineer will issue a Certificate of Substantial Completion when the work on the pre-substantial punch list has been accomplished and the applicable Permitting Authorities have inspected the work and issued their certificates of completion. An example of the Certificate of Substantial Completion by Contractor may be found in Exhibit E, attached hereto and made a part hereof by reference.
- (i) Final Completion – Monitor subcontractor performance on the completion of the project and provide notice to the Owner and Architect-Engineer that the work is ready for final inspection. Secure and transmit to the Owner, through the Architect-Engineer, all required guarantees, affidavits, releases, bonds and waivers, manuals, Record Drawings, and maintenance books including the Contractor's Affidavit of Contract Completion form shown in Exhibit F, attached hereto and made a part hereof by reference.
- (j) Start-Up – With the Owner's personnel, direct the checkout of utilities, operations, systems, and equipment for readiness and assist in their initial start-up and testing.
- (k) Record Drawings (As Built Drawings) – During the progress of the work, the Contractor shall require the plumbing, air conditioning, heating, ventilating, elevator, and electrical subcontractors to record on their field sets of drawings the exact locations, as installed, of all conduit, pipe, and duct lines whether concealed or exposed which were not installed exactly as shown on the contract drawings. The Contractor shall also record all drawing revisions that have been authorized by Change Order that affect wall or partition locations, door and window locations, and other template changes. The exact routing of conduit runs shall be shown on these drawings.

Each drawing shall be noted as-built and shall bear the date and name of the subcontractors that performed the work. Where the work was installed exactly as shown on the contract drawings the sheets shall not be disturbed except as noted above.

The Contractor shall review the completed Record Drawings and ascertain all data furnished on the drawings are accurate and truly represent the work as actually installed. When manholes, boxes, underground conduits, plumbing, hot or chilled water lines, inverts, etc. are involved as part of the work, the Contractor shall furnish true elevations and locations, all properly referenced by using the original benchmark used for the Project.

- (l) Signage – All signs and signage must be approved by the Department’s Project Manager or designee prior to placement.
- (9) Administrative Records – The Contractor will maintain at the job site, unless agreed to otherwise by the Project Manager, on a current basis, files, and records such as, but not limited to the following (“Project Records”):
- Contracts or Purchase Orders
  - Shop Drawing Submittals and Approval Logs
  - Equipment Purchase/Delivery Logs
  - Contract Drawings and Specifications with Addenda
  - Warranties and Guarantees
  - Cost Accounting Records
  - Sales Tax Recovery Status Report
  - Labor Costs
  - Material Costs
  - Subcontractor Payment Exception Report
  - Equipment Costs
  - Cost Proposal Requests
  - Payment Request Records
  - Meeting Minutes
  - Cost-Estimates
  - Bulletin Quotations
  - Lab Test Reports
  - Insurance Certificates and Bonds
  - Contract Changes
  - Purchase Orders
  - Material Purchase Delivery Logs
  - Technical Standards
  - Design Handbooks
  - As-Built Marked Prints / Record Drawings
  - Operating & Maintenance Instruction
  - Daily Progress Reports
  - Monthly Progress Reports
  - Correspondence Files
  - Transmittal Records
  - Inspection Reports
  - Bid/Award Information
  - Bid Analysis and Negotiations
  - Punch Lists
  - PMIS Schedule and Updates
  - Suspense (Tickler) Files of Outstanding Requirements

The above Project Records shall be available at all times to the Owner and Architect-Engineer for reference or review.

- (10) Owner Occupancy – The Contractor shall provide services during the Design Phase and the Construction Phase, which will provide a smooth and successful Owner Occupancy of the project. Contractor shall provide consultation and project management to facilitate Owner Occupancy and provide transitional services to get the work, as completed by the Contractor, in such conditions as will satisfy Owner operational requirements.

The Contractor shall conduct the preliminary punch list inspection and coordinate the completion of all punch list work to be done with Owner Occupancy requirements in mind.

The Contractor shall catalog operational and maintenance requirements of equipment to be operated by

maintenance personnel and convey these to the Owner in such a manner as to promote their usability. The Contractor shall provide operational training in equipment use for building operators.

The Contractor shall secure required guarantees and warranties and assemble and deliver same to the Owner in a manner that will facilitate maximum enforcement and assure meaningful implementation.

The Contractor shall continuously review the Record Drawings and mark up progress prints to provide as much accuracy as possible.

The Owner will not occupy or take control of the Project until the above items have been completed and the Project has been declared substantially complete by the Architect-Engineer and the permitting authorities.

(11) Warranty – Where any work is performed by the Contractor's own forces or by subcontractors under contract with the Contractor, the Contractor shall warrant that all materials and equipment included in such work will be new except where indicated otherwise in the construction drawings and specifications, and that such work will be of good quality, free from improper workmanship and defective materials, and in conformance with the construction drawings and specifications. With respect to the same work, the Contractor further agrees to correct all work found by the Owner to be defective in material and workmanship or not in conformance with the construction drawings and specifications for a period of one (1) year from the Date of Substantial Completion or for such longer periods of time as may be set forth with respect to specific warranties contained in the trade sections of the specifications. The Contractor shall collect and deliver to the Owner any specific written warranties given by others as required by the construction drawings and specifications. Also, the Contractor shall conduct jointly with the Owner and the Architect-Engineer a warranty inspection nine (9) months after the date of Owner Occupancy.

2.4 DIRECT PURCHASE MATERIALS – Section Removed.

### **ARTICLE 3 OWNER'S RESPONSIBILITIES**

- 3.1 OWNER'S INFORMATION – The Owner shall provide full information regarding the requirements for the Project.
- 3.2 OWNER'S REPRESENTATIVE – The Owner shall designate a representative or Project Manager, see Section 1.3, who shall be fully acquainted with the Project and shall define the lines of Owner authority to approve Project Construction Budgets and changes in the Project. The Project Manager shall render decisions promptly and furnish information expeditiously.
- 3.3 ARCHITECT AND ENGINEER'S AGREEMENT – The Owner shall retain an Architect-Engineer for design and to prepare Construction Documents for the Project. The Architect-Engineer's services, duties, and responsibilities are described in the Agreement between the Owner and the Architect-Engineer, a copy of which is available on the DMS webpage. The Agreement between the Owner and the Architect-Engineer shall not be modified without written notification to the Contractor.
- 3.4 SITE SURVEY AND REPORTS – The Owner shall provide for the furnishing for the site of the project all surveys describing the physical characteristics, soil reports and subsurface investigations, legal limitations, utility locations, and a legal description.
- 3.5 APPROVALS AND EASEMENTS – The Owner shall pay for necessary approvals, easements, assessments, and charges required for the construction, use or occupancy of permanent structures, or for permanent changes in existing facilities as part of the Guaranteed Maximum Price.
- 3.6 LEGAL SERVICES – The Owner shall furnish such legal services as may be necessary for providing the items set forth in Article 3.5 and such auditing services as may be required.
- 3.7 DRAWINGS AND SPECIFICATIONS – The Contractor will be furnished a reproducible set of all copies of drawings and specifications reasonably necessary and ready for printing by the Architect-Engineer.
- 3.8 COST OF SURVEYS AND REPORTS – The services, information, surveys, and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the Owner's expense, and the Contractor shall be entitled to rely upon the accuracy and completeness thereof.
- 3.9 PROJECT FAULT DEFECTS – If the Owner becomes aware of any fault or defect in the Project or non-conformance with the drawings and specifications, prompt written notice shall be given to the Contractor and Architect-Engineer.

- 3.10 FUNDING – The Owner shall furnish in accordance with the established schedule, reasonable evidence satisfactory to the Contractor that sufficient funds will be available and committed for the cost of each part of the Project. The Contractor shall not commence any work unless authorized in writing by the Owner.
- 3.11 LINES OF COMMUNICATION – The Owner and Architect-Engineer shall communicate with the Contractor's subcontractors or suppliers only through the Contractor.
- 3.12 LINES OF AUTHORITY – The Owner shall establish and maintain lines of authority for its personnel and shall provide this definition to the Contractor and all other affected parties.
- 3.13 PERMITTING AND CODE INSPECTIONS – The Contractor must recognize and fully cooperate and coordinate with the Permitting Authority during the course of the Project.
- 3.14 OWNERSHIP OF PROJECT DOCUMENTS – Drawings, specifications, all Construction Documents, and other documents including those in electronic form, prepared by the Architect-Engineer or the Contractor and furnished for the Project are the property of the Owner. The Owner shall retain all common law, statutory, and other reserved rights, including copyrights related to the documents for the Project. The Contractor shall require language in each of its subcontracts providing for the Owner's ownership of all Project documents. The Contractor hereby transfers, grants, conveys, assigns, and relinquishes exclusively to the Owner, all of the Contractor's right, title, and interest of every kind throughout the world in and to all intellectual property developed for the Owner by the Contractor in conjunction with this Agreement, including all United States and International copyrights or patents thereto, and any renewals or extensions thereof, together with all other interests accruing by reason of international conventions with respect to intellectual property. The Contractor agrees to sign any additional documents and otherwise cooperate with the Owner, as may reasonably be requested, to further evidence, perfect, protect, or enforce the transfer under this Section. For this purpose, the provisions of this Section shall survive the termination, for any reason, of this Agreement.
- 3.15 OWNER APPROVAL RIGHTS – Any approvals, certificates, or decisions of the Architect-Engineer are subject to the approval of the Owner, which approval shall not be unreasonably withheld. At the Owner's discretion, the duties of the Architect-Engineer described herein may be performed by the Owner or the Owner's representative. The Owner shall be entitled to make any decision or approval required by this Agreement to be made by the Architect. Any decision of the Owner shall supersede any decision of the Architect. Any time the Contractor shall be required to notify or report to Architect, such notice or report shall also be made to the Owner.

#### **ARTICLE 4 PERMITTING AND INSPECTION**

Before work can begin, it is necessary by statute for the Contractor to obtain a Building Permit. In addition, construction will be inspected for code compliance, compliance with drawings and specifications, and quality by inspectors working for the Permitting Authority. The building permitting and code inspection requirements shall be as described in Articles 4.1 and Article 4.2 hereinafter.

For all New Construction and Modifications to Existing State Facilities, permits are required per Section 633.022 and 633.85, Florida Statutes.

- 4.1 BUILDING PERMITS – The Contractor is obligated to obtain and pay for a building permit from the local authority for construction of this State facility with the exception of the Fire Marshal. The State Fire Marshal has jurisdiction over any new construction, renovations, or alterations to any existing state-owned building or state-leased space in order to comply with uniform fire safety standards.
- (1) In the case of building, plumbing, electrical, other internal system permits and connection permits, the Contractor is obligated to obtain such permits and pay such fees.
  - (2) The Contractor shall determine the permits and fees required by any entity having jurisdiction over any part of the project and shall include the cost of all such permits in its bid proposal.
  - (3) The State Fire Marshal has jurisdiction over all State Facilities. The Owner will apply for and pay for the permit by the State Fire Marshal.
- 4.2 CODE INSPECTIONS – All projects will require detailed code compliance inspections by the local authorities with jurisdiction over the area in which the project is located. The disciplines normally include but are not limited to, structural, mechanical, electrical, plumbing, and general building. The Contractor shall make all permits, drawings, specifications, previous inspection reports, and change documents available to Code Inspectors. The Contractor

shall provide a copy of each inspection report to the Architect-Engineer in a timely fashion.

## **ARTICLE 5 SUBCONTRACTS**

- 5.1 **DEFINITION** – A subcontractor is a person or organization who has a direct contract with the Contractor to perform any of the work at the site. Nothing contained in this Agreement shall create any contractual relation between the Owner or Architect-Engineer and any subcontractor.
- 5.2 **PROPOSALS** – Subject to Article 9 and, in accordance with Article 2.3(3), the Contractor shall request and receive proposals from subcontractors and suppliers and will award those contracts to the qualified lowest bidder after review of each proposal and satisfaction that the subcontractor is qualified to perform the work.
- 5.3 **REQUIRED SUBCONTRACTORS' QUALIFICATIONS AND SUBCONTRACT CONDITIONS**

- 5.3.1 **Subcontractual Relations** – By an appropriate written agreement, the Contractor shall require each subcontractor to the extent of the work to be performed by the subcontractor, to be bound to the Contractor by the terms of this Agreement and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by this Agreement, assumes toward the Owner and the Architect-Engineer. The Agreement shall preserve and protect the rights of the Owner and Architect-Engineer under this Agreement with respect to the work to be performed by the subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with their sub-subcontractor.

The Contractor shall make available to each proposed subcontractor, prior to the execution of a subcontract, copies of this Agreement to which the subcontractor will be bound by this Article 5.3 and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with this Agreement. Each subcontractor shall similarly make copies of such documents available to his sub-subcontractors.

5.3.2 **Subcontract Requirements**

- (1) For all subcontracts the requirements listed in Article 2.3(3) have been met.
- (2) Supervision – The subcontractor must agree to provide field (on-site) supervision through a named superintendent. In addition, the subcontractor shall assign and name a qualified employee for scheduling direction for its work. The supervisory employees of the subcontractor, including field superintendent, foreman, and schedulers at all levels, must have been employed in a supervisory (leadership) capacity of a substantially equivalent level on a similar project for at least two (2) years within the last five (5) years. The subcontractor shall include a resume of experience for each employee they have identified to supervise and schedule the work.
- (3) All subcontracts shall provide:
  - (a) **LIMITATION OF REMEDY – NO DAMAGES FOR DELAY**  
The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Architect-Engineer or attributable to the Owner or Architect-Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time.

In the event of a change in the scope of the work the subcontractor's claim for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus no more than 15% for overhead and profit and bond costs.

Each subcontract shall require the subcontractor to expressly agree that the foregoing constitute the sole and exclusive remedies for delays and changes in the work and thus eliminate any other remedies for claim for increase in the contract price, damages, losses, or additional compensation.

- (b) Each subcontract shall require any claims by subcontractor for delay or additional cost must be submitted to Contractor within the time and in the manner in which the Contractor must submit such claims to the Owner. Failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

- 5.4 **RESPONSIBILITIES FOR ACTS AND OMISSIONS** – The Contractor shall be responsible to the Owner for the acts and omissions of their employees and agents and their subcontractors, their agents and employees, and all

other persons performing any of the work or supplying materials under a contract to the Contractor.

**ARTICLE 6  
SCHEDULE, TIME OF COMMENCEMENT, AND SUBSTANTIAL COMPLETION**

- 6.1 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. The Contractor agrees to complete the construction in accordance with the agreed upon Substantial Completion Date, Final Completion Date, and Owner Occupancy Date. The Contractor acknowledges that failure to complete the project within the construction time set forth in the approved schedule may result in substantial damages to the Owner, all of which damages the Contractor shall be liable.
- 6.2 The Date of Owner Occupancy shall occur as described in Article 2.3(10) hereinabove. Warranties called for by this Agreement or by the drawings and specifications shall commence on the Date of Substantial Completion of the Project.
- 6.3 Liquidated Damages – The work to be performed under the Agreement shall:
1. Be commenced within ten (10) calendar days after date of Notice to Proceed;
  2. Attain Substantial Completion by the time set forth in the attached "Supplementary Terms and Conditions" (the "Substantial Completion Date"); and
  3. Be finally complete within thirty (30) days of the Substantial Completion Date.

Because failure to complete the Project in a timely basis will result in substantial injury to Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, it is hereby agreed that if Substantial Completion does not occur by the Substantial Completion Date, Contractor shall pay to Owner as Liquidated Damages for such delay, and not as a penalty, the amount set forth in the attached "Supplementary Terms and Conditions" for each and every calendar day elapsing between the Substantial Completion Date and the date such substantial completion shall have been fully accomplished. Said Liquidated Damages shall be payable in addition to any excess expenses or costs payable by Contractor to Owner and shall not exclude the recovery of damages by Owner under other provisions of the Contract Documents, except for Contractor's delay. This provision of Liquidated Damages for delay shall in no manner affect Owner's right to terminate the contract as provided in Article 14 or elsewhere in the Contract Documents. Owner's exercise of the right to terminate shall not release Contractor from its obligation to pay said Liquidated Damages in the amount of \$\_\_\_\_\_ as set forth above.

In the event of termination of the Agreement by Owner prior to the Substantial Completion Date, Contractor shall be liable to Owner for the expenses for additional managerial and administrative services provided in Article 14.2 and also for the per diem Liquidated Damages at the rate specified in the Agreement:

1. For each day it is in arrears in its work at the time of said termination as determined by the Architect/Engineer; and,
2. For an additional thirty (30) calendar days, hereby stipulated and agreed to be the time it will require Owner to execute another contract for completion of the Project and for resumption of work thereon.

Provided, however, that the sum of 1 and 2 above shall not exceed the number of days beyond the Substantial Completion Date, or any reasonable extension thereof.

Owner may deduct from any balance retained by Owner, the Liquidated Damages for delay or termination, as the case may be, or such portions thereof as the retained balance will cover.

**ARTICLE 7  
GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION**

**The entirety of Article 7 has been removed from this Agreement.**

**ARTICLE 8  
CONTRACTOR'S FEE**

**The entirety of Article 8 has been removed from this Agreement.**

**ARTICLE 9  
COST OF THE PROJECT**

9.1 **DEFINITION** – The term Cost of the Project shall mean costs necessarily incurred in the Project during the Construction Phase and paid by the Contractor which are not included in Article 8. Such costs shall include the items set forth below in this Article.

The Owner agrees to pay the Contractor for the Cost of the Project as defined in Article 9.1 and listed as a Direct Cost Item in Article 9.2. Such payment shall be in addition to the Contractor's Fees stipulated in Article 8.

9.2 **DIRECT COST ITEMS**

- (1) Wages paid for labor in the direct employ of the Contractor in the performance of the work under Agreement.
- (2) Cost of all materials, supplies, and equipment incorporated in the Project, including costs of transportation and storage thereof.
- (3) Payments due to subcontractors from the Contractor or made by the Contractor to subcontractors for their work performed pursuant to contract under this Agreement.
- (4) Cost including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workmen, which are employed or consumed in the performance of the work; cost on such items used but not consumed which may be turned over to the Owner at the end of the project; and cost less salvage value on such items used but not consumed which remain the property of the Contractor. For those items to be turned over to the Owner at the end of the project, Article 2.2(6) shall apply.
- (5) Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Contractor or others, including installation, repairs and replacements, dismantling, removal, costs of lubrication, transportation, and delivery costs thereof, which are used in the support of a subcontractor or the Contractor's own forces in the performance of the work, at rental charges consistent with those prevailing in the area. See Article 2.2(6).
- (6) Cost of the premiums for all insurance and cost of premiums for all bonds which the Contractor is required to procure by this Agreement specifically for the construction project. This includes any subcontractor bonds the Contractor deems appropriate.
- (7) Sales, use, gross receipts, or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Contractor is liable.
- (8) The cost of corrective work subject, however, to the Guaranteed Maximum Price and except for any corrective work made necessary because of defective workmanship or other causes contributed to by the Contractor or their subcontractors or suppliers.

No costs shall be paid by the Owner to the Contractor for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the plans and specifications or to correct any deficiency or damage caused by negligent acts by the Contractor. If procedures for testing, inspection, or approval reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by the correction of such failure, including those of repeated procedures or testing thereafter and compensation for the Architect's services and expenses, shall be at the Contractor's expense without increase in the Guaranteed Maximum Price.

- (9) Minor expenses at the site, such as, telephone service, expressage, postage, and similar petty cash items in connection with the Project to be billed at cost.
- (10) Costs for trash and debris control and removal from the site.
- (11) Cost incurred due to an emergency affecting the safety of persons and property.
- (12) Section Removed
- (13) Transportation to the site for those personnel employed directly for the project.
- (14) Costs of all reproductions used for bidding or informational purposes required by the project to directly benefit the project.



- (15) Costs of general job office supplies including paper, pencils, paper clips, file folders, staples, and janitorial supplies.
- (16) Costs for watchman and security services for the project.
- (17) Costs for efficient logistical control of the site, including horizontal and vertical transportation of materials and personnel. Also, costs for adequate storage and parking space.
- (18) Costs for such temporary facilities during construction, as approved by the Owner, including temporary water, heat, power, sanitary facilities, and data and/or voice landlines.
- (19) Cost of utilizing a computer aided design and drafting application (CADD) for Record Drawings as described in Article 2.3(8)(k). Upon completion of the work, the Contractor shall obtain two (2) sets of disc files from the Architect-Engineer and record to scale all as-built conditions. When completed, the two (2) discs shall be submitted to the Architect-Engineer, together with two (2) sets of blue line or black line prints for certification and forwarding to the Owner and the Client Agency, at the time of final completion.

For those Contractors who do not have CADD capabilities, the marked-up Record Drawings will be submitted to the Architect-Engineer. The Architect-Engineer will make the electronic updates and provide two (2) paper copies and two (2) sets of CADD disc files and return them to the Contractor for development of the Close-Out Documents.

- (20) Other costs directly incurred in the performance of the Project for the benefit of the Project and not included in the Contractor's fees as set forth in Article 8, if approved by the Owner in writing and that do not cause the GMP, as adjusted by Change Order, to be exceeded.
- (21) Costs for job site items not referenced herein, that are not normally provided by the subcontractors, which are provided by the Contractor as required to complete the Work, if approved by the Owner in writing and that do not cause the GMP, as adjusted by Change Order, to be exceeded.

### 9.3 COSTS NOT TO BE REIMBURSED – Section Removed

## **ARTICLE 10 CHANGES IN THE PROJECT**

- 10.1 CHANGE ORDERS – 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.
  - 10.1.1 A Change Order is a written order to the Contractor signed by the Owner issued after the execution of this Agreement, authorizing a Change in the Project, the Contractor's fee, or the Final Completion date. Each adjustment in the Guaranteed Maximum Price resulting from a Change Order shall clearly separate the amount attributable to the Cost of the Project.
  - 10.1.2 The increase or decrease in the Guaranteed Maximum Price resulting from a change in the Project shall be determined in one or more of the following ways:
    - (1) by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect-Engineer and Owner;
    - (2) by unit prices stated in the Agreement or subsequently agreed upon;
    - (3) by cost as defined in Article 9 and a mutually acceptable fixed or percentage fee; or
    - (4) by the method provided in Article 10.1.3.
  - 10.1.3 If none of the methods set forth in Article 10.1.2 is agreed upon, the Contractor, provided a written order signed by the Owner is received, shall promptly proceed with the work involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. However, in the event a Change Order is issued under these conditions, the Architect-Engineer will establish an estimated cost of the work and the Contractor shall not perform any work whose cost exceeds that estimate without prior written approval by the Owner. In such case and under Article 10.1.2 above, the Contractor shall keep and present, in such form as the Owner may prescribe, an itemized

accounting together with appropriate supporting data of the increase in the Cost of the Project as outlined in Article 9. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease.

10.1.4 If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to the Owner or the Contractor, the applicable unit prices and Guaranteed Maximum Price shall be equitably adjusted.

10.1.5 The Guaranteed Maximum Price and the Final Completion Date shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Article 10.2. under the following:

- Should concealed conditions encountered in the performance of the work below the surface of the ground be at variance with the conditions indicated by the drawings, specifications, or Owner furnished information;
- Should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the drawings, specifications, or Owner furnished information;
- Should unknown physical conditions below the surface of the ground differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement; or
- Should concealed or unknown conditions in an existing structure of an unusual nature differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement.

10.2 CLAIMS FOR ADDITIONAL COST OR TIME – All claims for additional cost or time shall be made by request as provided in Article 16.

If the Contractor is delayed at any time in the progress of the work by any act or neglect of the Owner or the Architect or of any employee of either or by any separate Contractor employed by the Owner or by any changes ordered in the work by labor disputes, fire, or unusual delays in transportation, unavoidable casualties or any causes beyond the Contractor's control or by delay authorized by the Owner pending resolution of disputes, and such delay extends the completion date, the Substantial Completion shall be extended by Change Order for such reasonable time as the Construction Team may determine; however the Guaranteed Maximum Price shall not be increased except for the additional fees set forth in Article 8.2. It is the express and bargained for intent of the Parties that the risk of any monetary damages caused by any delays from any cause are accepted and assumed entirely by Contractor, and in no event shall any claim relating thereto for an increase in the Contract Sum be made or recognized, except for the additional fees set forth in Article 8.2.

Only delays which are determined to extend the critical path for the schedule for constructing the Project will result in a time extension. Neither the Owner nor the Contractor shall be considered to own the schedule float time.

10.3 MINOR CHANGES IN THE PROJECT – The Architect-Engineer will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Construction Completion Date and not inconsistent with the intent of the drawings and specifications. Such changes shall be in writing. Documentation of changes shall be determined by the Construction Team and displayed monthly in the PMIS. Changes shall be approved by the Project Manager and Architect-Engineer.

10.4 EMERGENCIES – In any emergency affecting the safety of persons or property, the Contractor shall act at their discretion, to prevent threatened damage, injury, or loss. Any increase in the Guaranteed Maximum Price or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 10.

## **ARTICLE 11 DISCOUNTS AND PENALTIES**

**The entirety of Article 11 has been removed from this Agreement.**

## **ARTICLE 12 PAYMENTS TO THE CONTRACTOR**

12.1 MONTHLY PAYMENTS – The Contractor shall submit to the Owner a notarized monthly pay request, along with the cost reports required under Article 2.1.2, showing in detail all monies paid out, costs accumulated, or costs incurred on account of the Cost of the Project during the previous monthly period, and the amount of the

Contractor's fees due as provided in Article 8.

Five percent (5%) retainage shall be held on all payments, except when approved by the Owner, certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. In such cases, if the Owner makes any payment of retainage to the Contractor that is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the Contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

Retainage shall not be withheld on services or fees set forth in Article 8. The Owner shall promptly make payment to the Contractor, unless the Owner has grounds, pursuant to Section 255.078(3), Florida Statutes, for withholding the payment of retainage. If the Owner makes payment of retainage to the Contractor that is attributable to the labor, services or materials supplied by one or more subcontractors or suppliers, the Contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

The Pre-Construction Phase Fee, Construction Phase Fee, and Overhead and Profit shall be shown as separate line items on the Schedule of Contract Values. Payment of the Contractor's Overhead and Profit shall be calculated based on the Construction Budget balance or the Guaranteed Maximum Price balance whichever is applicable. The Construction Budget balance or the Guaranteed Maximum Price balance is established by subtracting the Pre-Construction Phase Fee, Construction Phase Fee and Overhead and Profit from the latest estimate of the total construction cost or to the Guaranteed Maximum Price or to the Owner's Construction Budget, whichever is less. The billable Overhead and Profit is calculated by multiplying the percentage complete of the Construction Budget balance or the Guaranteed Maximum Price balance, as applicable. This data shall be attached to the partial pay request form shown in Exhibit D, attached hereto and made a part hereof by reference. Payments by the Owner to the Contractor shall be made as described in Article 17.6.

- 12.2 **SUPPORTING DOCUMENTATION** – The following documents are required to be submitted with each invoice:
- (1) The Contractor's Partial Payment Routing Transmittal, an example of which is attached as Exhibit K, attached hereto and made a part hereof by reference;
  - (2) The Owner's Certificate of Partial Payment, an example of which is attached as Exhibit G, attached hereto and made a part hereof by reference;
  - (3) The Contractor's schedule of values for the Project; and,
  - (4) The Contractor's Status Report of Certified Business Enterprise (CBE) Form, an example of which is attached as Exhibit I, attached hereto and made a part hereof by reference. This form must be included even if no Certified Business Enterprise firms were utilized.

Any required forms may be accessed at:

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

- 12.3 **FINAL PAYMENT** – The Contractor shall submit its Final Pay Request within forty-five (45) days of Final Completion of the Project. Final payment constituting the unpaid balance of the Cost of the Project and the Contractor's fee, shall be due and payable as described in Article 17.6 after the Owner has accepted occupancy of the Project, provided the Project is completed, that the Contractor has verified by its signature that all items specified on Exhibit H - Final Payment Request Checklist, , attached hereto and made a part hereof by reference, have been completed, and that this Contract has been fully performed. However, if there should remain work to be completed, the Contractor and the Architect-Engineer shall list those items prior to receiving final payment and the Owner may retain a sum equal to one hundred fifty percent (150%) of the estimated cost of completing any unfinished work and portion of the Contractor's retainage, provided that said unfinished items are listed separately and the estimated cost of completing any unfinished items are likewise listed separately. Thereafter, the Owner shall pay monthly to the Contractor the amount retained for each incomplete item after each of said items is completed.
- 12.4 **PAYMENTS TO SUBCONTRACTORS** – The Contractor shall promptly, within ten (10) days after receipt of payment from the Owner, pay all the amounts due subcontractors and suppliers less a retainage of five percent (5%). The specific amount to be withheld must be determined on a case-by-case basis and must be based on the Contractor's assessment of the subcontractor's past performance, the likelihood that such performance will continue, and the Contractor's ability to rely on other safeguards. If there should remain items to be completed, the Contractor and the Architect-Engineer shall list those items required for completion and the Contractor shall require the retainage of a sum equal to one hundred fifty percent (150%) of the estimated cost of completing any unfinished items, provided that said unfinished items are listed separately and the estimated cost of completing

any unfinished items likewise listed separately. Thereafter, the Contractor shall pay to the subcontractors monthly the amount retained for each incomplete item after each of said items is completed. Before issuance of final payment without any retainage, the subcontractor shall submit satisfactory evidence that all payrolls, material bills, and other indebtedness connected with the Project have been paid or otherwise satisfied, warranty information is complete, as-built markups have been submitted, and instructions for the Owner's operating and maintenance personnel is complete.

Final payment may be made to certain select subcontractors whose work is satisfactorily completed prior to the total completion of the Project but only upon approval of the Owner.

- 12.5 DELAYED PAYMENTS BY OWNER – The Owner shall submit a payment request for all undisputed amounts to the Chief Financial Officer for payment no more than twenty (20) days after receipt of an approvable payment request. If the Owner should fail to pay the Contractor within forty (40) days after the receipt of an approvable payment request from the Contractor, then the Contractor may, upon seven (7) additional days written notice to the Owner and the Architect-Engineer, stop the Project until payment of the amount owing has been received.
- 12.6 PAYMENTS FOR MATERIALS AND EQUIPMENT – Payments will be made for materials and equipment not incorporated in the work but delivered and suitably stored at the site or another location, subject to prior approval and acceptance by the Owner on each occasion.
- 12.7 WITHHOLDING PAYMENTS TO SUBCONTRACTORS – The Contractor shall not withhold payments to subcontractors if such payments have been made to the Contractor. Should this occur for any reason, the Contractor shall immediately return such monies to the Owner, adjusting pay requests and Project bookkeeping as required.
- 12.8 FLORIDA STATUTES REGARDING PROMPT PAYMENT REQUIREMENTS – The Contractor 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 13 INDEMNITY, INSURANCE, and BONDS**

- 13.1 INDEMNITY – To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of this Agreement.
- 13.2 CONTRACTOR'S INSURANCE
- (1) The Contractor shall not commence any construction work in connection with this Agreement until they have obtained all the following types of insurance and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on their subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in Florida.
- (2) Worker's Compensation Insurance – The Contractor shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all its employees connected with the work of this Project and, in case any work is sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all the subcontractor's employees unless such employees are covered by the protection afforded by the Contractor. Such insurance shall comply with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this contract at the site of the Project is not protected under the Worker's Compensation statute, the Contractor shall provide adequate insurance, satisfactory to the Owner, for the protection of employees not otherwise protected.
- (3) Contractor's Public Liability and Property Damage Insurance – The Contractor shall take out and maintain during the life of this Agreement Comprehensive General Liability and Comprehensive Automobile Liability Insurance as shall protect them from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operating under this Agreement whether such operations are by the Contractor or by anyone directly or indirectly employed by them, and the amount of such insurance shall be minimum limits as follows:
- |   |  |
|---|--|
| (a) Contractor's Comprehensive General Liability Coverages, Bodily Injury & Property Damage | \$1,000,000 Each Occurrence, Combined Single Limit |
|---|--|

- |  |   |
|--|---|
| (b) Automobile Liability Coverages,<br>Bodily Injury & Property Damage | \$500,000 Each Occurrence,<br>Combined Single Limit   |
| (c) Excess Liability, Umbrella Form                                    | \$4,000,000 Each Occurrence,<br>Combined Single Limit |

Insurance clause for both BODILY INJURY AND PROPERTY DAMAGE shall be amended to provide coverage on an occurrence basis.

- (4) Subcontractor's Public Liability and Property Damage Insurance – The Contractor shall require each of their subcontractors to procure and maintain during the life of the subcontract, insurance of the type specified above or insure the activities of their subcontractors in their policy, as specified above, except Excess Liability, Umbrella Form for subcontractors may be reduced upon written consent of the Owner.
- (5) Owner's and Contractor's Protective Liability Insurance – The Contractor shall procure as a cost of the project and furnish an Owner's and Contractor's Protective Liability Insurance Policy with the following minimum limits:
  - (a) Bodily Injury Liability & Property Damage Liability \$1,000,000 Each Occurrence  
Combined Single Limit
- (6) Explosion, Collapse, Underground Damage (XCU) – The Contractor's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
- (7) Broad Form Property Damage Coverage, Products, and Completed Operations Coverages – The Contractor's Liability Policy shall include Broad Form Property Damage Coverage, Products, and Completed Operations Coverages.
- (8) Contractual Liability Work Contracts – The Contractor's Liability Policy shall include Contractual Liability Coverage designed to protect the Contractor for contractual liabilities assumed by the Contractor in the performance of this Agreement.
- (9) Builder's Risk Coverage – The Contractor shall take out and maintain during the life of this Agreement a Builder's Risk Policy completed value form as a Cost of the Project, issued to provide coverages on an All-Risk basis, including theft. This coverage shall not be lapsed or cancelled because of partial occupancy by the Owner prior to final acceptance of the Project.
- (10) Certificate of Insurance – Certificate of Insurance form will be furnished to the Owner along with the Construction Documents. These shall be completed and signed by the authorized Florida Resident Agent and returned to the office of Real Estate Development and Management. The Owner shall be furnished proof of coverage of Insurance as follows:
  - (a) The name of the insured Contractor, the specific job by name and job number, the name of the insurer, the number of the policy, the policy effective date, and the policy termination date.
  - (b) Statement that the Insurer will mail notice to the Owner and a copy to the Architect-Engineer at least fifteen (15) days prior to any material changes in provisions or cancellation of any policy.
  - (c) Shall be in the form as approved by Insurance Standards Office (ISO) and such Certificate shall clearly state all the coverages required in this Section commencing at Article 13.2 and ending with Article 13.3.4.
  - (d) Shall state that the Owner is listed as additional insured on all appropriate policies.
  - (e) Copy of the endorsement or additional insured rider to the General Liability Policy.
  - (f) License / Registration Number of authorized Resident Agent.

### 13.3 INSURANCE WAIVER OF SUBROGATION

13.3.1 The Owner and the Contractor waive all rights against each other, for damages caused by perils covered by insurance provided under Article 13.2 to the extent covered by such insurance except such rights as they may have to the proceeds of such insurance held by the Owner and Contractor as trustees. The Contractor shall require similar waivers from all subcontractors and their sub-subcontractors.

13.3.2 The Owner and Contractor waive all rights against each other for loss or damage to any equipment used

in connection with the Project and covered by any property insurance. The Contractor shall require similar waivers from all subcontractors and their sub-subcontractors.

13.3.3 The Owner waives subrogation against the Contractor on all property and consequential loss policies carried by the Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.

13.3.4 If the policies of insurance referred to in this Article require an endorsement to provide for continued coverage where there is a waiver of subrogation, the Owner of such policies will cause them to be so endorsed. Failure to obtain proper endorsement nullifies the waiver of subrogation.

13.4 **BONDS** – In accordance with the provisions of Section 255.05, Florida Statutes, the Contractor shall provide to the Owner, on forms furnished by the Owner, a one hundred percent (100%) unconditional Performance Bond and a one hundred percent (100%) unconditional Labor and Material Payment Bond each in an amount not less than the total Cost of the Project as defined in Article 9 and inclusive of the Contractor's fees.

To be acceptable to the Department of Management Services as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:

- (1) The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Financial Services, Office of Insurance Regulation, authorizing it to write surety bonds in the State of Florida.
- (2) The Surety Company shall have currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
- (3) The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
- (4) The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.
- (5) If the Contract Award Amount exceeds \$500,000, the Surety Company shall also comply with the following provisions:
  - (a) The Surety Company shall have at least the following minimum ratings in the latest issue of Best's Key Rating Guide.

<u>CONTRACT AMOUNT</u>	<u>POLICYHOLDER'S RATING</u>	<u>REQUIRED FINANCIAL RATING</u>
\$500,000 TO \$1,000,000	A-	CLASS I
\$1,000,000 TO \$2,000,000	A-	CLASS II
\$2,000,000 TO \$5,000,000	A-	CLASS III
\$5,000,000 TO \$10,000,000	A-	CLASS IV
\$10,000,000 TO \$25,000,000	A-	CLASS V
\$25,000,000 TO \$50,000,000	A-	CLASS VI
\$50,000,000 TO \$100,000,000	A-	CLASS VII
\$100,000,000 TO \$250,000,000	A-	CLASS VIII
\$250,000,000 TO \$500,000,000	A-	CLASS IX

- (b) The Surety Company shall not expose itself to any loss on any one risk in an amount exceeding ten percent (10%) of its surplus to policyholders, provided:
  1. Any risk or portion of any risk being reinsured shall be deducted in determining the limitation of the risk as prescribed in this section. These minimum requirements shall apply to the reinsuring carrier providing authorization or approval by the State of Florida, Department of Financial Services, Office of Insurance Regulation to do business in this state have been met.
  2. In the case of the surety insurance company, in addition to the deduction for reinsurance, the amount assumed by any co-surety, the value of any security deposited, pledged or held subject to the consent of the surety and for the protection of the surety shall be deducted.

## ARTICLE 14

### TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO PERFORM CONTRACTOR'S OBLIGATION

14.1 TERMINATION BY THE CONTRACTOR – 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 unavailable, through no act or fault of the Contractor, or if the Project should be stopped for a period of sixty (60) days by the Contractor for the Owner's failure to make payments thereon, then the Contractor may, upon seven (7) days written notice to the Owner, terminate the Agreement and request payment for all work executed, plus the unpaid pro-rata portion of the Contractor's Fee on the completed Work as of the date of termination. This payment shall be the Contractor's sole remedy for any termination, whether for convenience or cause by either Party.

14.2 OWNER'S RIGHT TO PERFORM CONTRACTOR'S OBLIGATIONS AND TERMINATION BY OWNER FOR CAUSE

(1) If the Contractor 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 Contractor fails to commence and sufficiently pursue correction of such obligation, make good such deficiencies. The Guaranteed Maximum Price, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the Owner of making good such deficiencies and the Contractor's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

(2) Agreement Termination – Termination of this Agreement may occur if during the construction process the Contractor:

- is adjudged bankrupt,
- makes a general assignment for the benefit of Contractor's creditors,
- has a receiver appointed on account of Contractor insolvency,
- persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials,
- fails to maintain an established schedule. Failure to maintain schedule shall be defined as any activity on the critical path that falls forty-five (45) days or more behind schedule, which has been adopted by the Construction Team,
- fails to make prompt payment to subcontractors for materials or labor,
- 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.

Under any of the above referenced circumstances, the Owner may, without prejudice to any right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment, and machinery thereon owned by the Contractor, and may finish the Project by whatever method deemed expedient. The Owner must give the Contractor and their surety, if any, seven (7) days written notice, during which period the Contractor must commence correction of the violation or violations.

In such case, the Contractor shall not be entitled to receive any further payment until the Project is finished nor shall the Contractor be relieved from obligations assumed under Article 7. If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect-Engineer's services and expenses made necessary thereby, and other damages incurred by the Owner, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner.

(3) If the Contractor 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 Contractor in conjunction with this Agreement, then the Owner may, without prejudice to any right or remedy and after giving the Contractor and its surety, if any, seven (7) days written notice, during which period Contractor still fails to allow access, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment, and machinery thereon, owned by the Contractor, and may finish the Project by whatever method may be deemed expedient. In such case, the Contractor 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 7. Reasonable terminal expenses incurred by the Owner may be deducted from any payments left owing the Contractor, excluding monies owed the Contractor for subcontract work.

- (4) If any termination by Owner is later determined to have been improper or unjustified, such termination shall nonetheless be deemed and considered for all purposes a termination without cause and treated as a termination under Article 14.3.

#### 14.3 TERMINATION BY OWNER WITHOUT CAUSE

- (1) If the Owner terminates this Agreement other than pursuant to Article 14.2(2) or Article 14.2(3), the Owner shall reimburse the Contractor for any unpaid Cost of the Project due under Article 9, plus that part of the unpaid balance of the Construction Phase Fee in an amount as will increase the payment on account of their fee to a sum which bears the same ratio to the Construction Phase Fee as the Cost of the Project at the time of termination bears to the Guaranteed Maximum Price, if established, otherwise to the Owner's Construction Budget. The Owner shall also pay to the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment retained. In case of such termination of Agreement, the Owner may further assume and become liable for obligations, commitments, and unsettled contractual claims that the Contractor has previously undertaken or incurred in good faith in connection with said Project. This payment shall be the Contractor's sole remedy for any termination under this Section. The Contractor shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps including the legal assignment of their contractual rights, as the Owner may request or require for the purpose of fully vesting in them the rights and benefits of the Contractor.
- (2) After the establishment of the Guaranteed Maximum Price or at the completion of the Preconstruction Phase, if the final cost estimates or lack of legislative funding make the Project no longer feasible from the standpoint of the Owner, the Owner may terminate this Agreement and pay the Contractor their proportionate fee due in accordance with Article 8.

### **ARTICLE 15 ASSIGNMENT AND GOVERNING LAW**

- 15.1 Neither the Owner nor the Contractor shall assign its interest in this Agreement without the prior written consent of the other except as to the assignment of proceeds.
- 15.2 This Agreement shall be governed by the Laws of the State of Florida. Disputes shall be adjudicated exclusively in Leon County, Florida.

### **ARTICLE 16 NOTICE OF CLAIM; WAIVER OF REMEDIES; NO DAMAGES FOR DELAY**

- 16.1 The Contractor's right to make claims arising out of or related to the subject matter of this Agreement, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the Owner of the costs, damages, or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:
- (1) All claims must be submitted as a Request for Change Order in the manner as provided herein;
- (2) The Contractor must submit a Notice of Claim to Owner and to the Architect-Engineer within twenty (20) days of when the Contractor was or should have been aware of the occurrence of the event giving rise to the claim; and
- (3) Within ten (10) days of submitting its Notice of Claim, the Contractor shall submit to the Owner its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected.
- (4) The Contractor agrees that the Owner shall not be liable for any claim that the Contractor fails to submit as a Request for Change Order as provided in this paragraph.
- (5) In the event of a material change in the scope of work, the Contractor's claim for adjustments in the contract price are limited exclusively to its actual costs for such changes plus profit as identified in Article 8.
- 16.2 For work the Contractor performs with its own forces, and in addition to the adjustments provided for in Article 8, the Contractor's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the Owner or the Architect-Engineer and including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 16.1 above, for an extension of the scheduled construction time, however the contract price shall not be increased, except for the additional fees set forth in Article 8.2. It is the express and bargained for intent of the Parties that the risk of any monetary damages caused by any delays from any cause are accepted and assumed



entirely by Contractor and in no event shall any claim relating thereto for an increase in the contract price be made or recognized, except for the additional fees set forth in Article 8.2.

- 16.3 **DISPUTE RESOLUTION** - Any dispute concerning performance of this Agreement shall be decided by the Owner, who will reduce the decision to writing and serve a copy on the Contractor. The decision of the Owner shall be final and conclusive. Exhaustion of this administrative remedy is an absolute condition precedent to the Contractor's ability to pursue legal action related to the Agreement or any other form of dispute resolution.
- 16.4 **EXCLUSIVE REMEDY FOR DELAYS** – Except for the fee adjustments provided for in Article 8, the Contractor's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the Owner or the Architect-Engineer and including claims based on breach of Contract or negligence, shall be a claim submitted in compliance with Article 16.1 above for an extension of the scheduled construction time. The Contractor expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in such work and eliminates any other remedies for claim for increase in the contract price, delays, changes in the work, damages, losses, or additional compensation.
- 16.5 The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:
- (1) Damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
  - (2) Damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for loss of use, for rental expenses, for losses of financing, business and reputation, loss of employee productivity or the services of such persons, and for loss of profit, except anticipated profit arising directly from the Work actually performed.

This mutual waiver is applicable, without limitation, to all consequential damages due to either Party's termination in accordance with Article 14. Nothing contained in this Article 16.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Construction Documents. The Parties agree that costs to repair, correct, or remedy defective Work are not considered consequential damages.

- 16.6 **VENUE AND MEDIATION** – The venue for all civil and administrative actions against the Owner shall be in Leon County, Florida, unless otherwise agreed by the Parties. The Parties shall endeavor to resolve their Claims by non-binding mediation which, unless the Parties mutually agree otherwise, shall be administered in accordance with Section 44.102, Florida Statutes, in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other Party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the Parties or court order.

## **ARTICLE 17 MISCELLANEOUS**

- 17.1 **HARMONY** – The Contractor is advised and hereby agrees that it will exert every reasonable and diligent effort to assure that all labor employed by Contractor and their subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and Contractors now or hereafter on the site of the Project.

The Contractor further agrees that this provision will be included in all subcontracts of the subcontractors as well as the Contractor's own subcontracts; provided, however, that this provision shall not be interpreted or enforced to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

- 17.2 **APPRENTICES** – If the Contractor employs apprentices on the Project, the behavior of the Contractor and the Owner shall be governed by the provisions of Chapter 446, Florida Statutes, and by applicable standards and policies governing apprentice programs and agreements established by the State of Florida, Department of Business and Professional Regulation. The Contractor will include a provision similar to the foregoing sentence in each subcontract.
- 17.3 **INVOICES** - Invoices shall be submitted in detail sufficient for a proper preaudit and post audit thereof. Invoices 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. A Vendor Ombudsman has been established

within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

17.4 CONTRACTOR'S PROJECT RECORDS – The Contractor's Project Records shall be maintained as prescribed hereinabove in accordance with the State of Florida General Records Schedule for State Agencies A-1 and shall be made available to the Owner or its authorized representative at mutually convenient times.

17.5 CERTIFIED BUSINESS ENTERPRISE PARTICIPATION

17.5.1 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).

17.5.2 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.

17.6 CONTRACTOR'S PAYMENT RIGHTS – Upon receipt, the Owner has twenty (20) days to inspect and approve the goods and services. The Owner has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the pay request is received or the goods or services are received, inspected, and approved.

If payment is not available to the Owner for transmittal to the Contractor within forty (40) days, a separate interest penalty set by the Chief Financial Officer 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 Department of Financial Service, Fiscal Section through the Department of Financial Service 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 Contractor requests payment. Pay requests which must be returned to the Contractor because Contractor preparation errors will result in a delay in the payment and will incur interest. The pay requests payment requirements do not start until a properly completed pay request is provided to the Owner.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a state agency. Contact information for the Vendor Ombudsman may be found on the Department of Financial Services website.

17.7 PUBLIC ENTITY CRIME INFORMATION STATEMENT – A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. In accordance with section 287.133, Florida Statutes, the Contractor is hereby informed of the provisions of section 287.133(2)(a), Florida Statutes.

17.7.1 CRIMINAL HISTORY BACKGROUND CHECKS – The Owner may require the Contractor to conduct background checks of its employees, agents, representatives, and subcontractors as directed by the Owner's representatives. The cost of the background checks will be borne by the Contractor. The Owner 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 Project Manager within twenty-four (24) hours of all details concerning any reported arrest. Upon the request of the Owner, the Contractor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Agreement.

17.8 UNAUTHORIZED ALIENS – The Owner shall consider the employment by the Contractor 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.

17.8.1 Unauthorized Aliens Checks Through E-Verify – Pursuant to the State of Florida, Office of the Governor, Executive Order Number 11-116, the Contractor 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 Contractor to perform employment duties within Florida within three (3) business days after the date of hire; and all persons (including subcontractors) assigned by the Contractor to perform work pursuant to this Agreement 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 this Agreement, whichever is later.

17.9 DISCRIMINATION; DENIAL OR REVOCATION FOR THE RIGHT TO TRANSACT BUSINESS WITH PUBLIC ENTITIES – The Contractor affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

The Contractor and its Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Contractor shall take affirmative action to ensure qualified applicants are employed if work is available and employees are treated during employment without regard to their race, religion, color, sex, or national origin. The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin. Contractor agrees to post in places available to all employees and applicants for employment, notices setting forth the policies of non-discrimination.

17.10 APPROPRIATION CONTINGENCY – The State’s performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Florida Legislature.

17.11 ASSIGNMENT – For and in recognition of good and valuable consideration, receipt of which is hereby acknowledged, the Contractor hereby conveys, sells, assigns, and transfers to the State of Florida all rights, title, and interest in and to all causes to action it may now or hereafter acquire under the antitrust laws of the United States and the State of Florida for price fixing, relating to the particular goods or services purchased or acquired by or on behalf of the State of Florida pursuant to this Agreement.

17.12 EMPLOYMENT OF STATE RESIDENTS – To the extent permitted by federal law, Contractor shall give preference to the employment of state residents in the performance of the work on the project if state residents have substantially equal qualifications to those of nonresidents. The term “substantially equal qualifications” means the qualifications of two (2) or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one (1) person are better suited for the position than the qualifications held by the other person or persons.

17.13 POSTING OF JOB OPENINGS – The Contractor will contact the Florida Agency for Workforce Innovation to post its employment needs in the State’s job bank system.

17.14 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 Contractor agrees to protect and ensure the confidentiality of such documents under its custody or control in conformance with the requirements of Section 119.071, Florida Statutes, and all applicable law.

Any knowing violation of Chapter 119, Florida Statutes, may be sufficient grounds for immediate termination of the Contract by the Department of Management Services.

17.15 CURRENT FUNDING LIMITATIONS – The Owner's current funding only allows for an expenditure of «FundLimit» towards the Owner's Construction Budget shown in Article 1.4 hereinabove. Any further services and/or construction requires additional funding and are only to be commenced upon receipt of a specific written authorization from the Owner's Contracts Administrator. The effectiveness of that part of this contract that applies to work beyond a construction amount of «FundLimit» is contingent upon receiving additional funds from the Legislature. If the Legislature does not furnish funds for work beyond an expenditure of «FundLimit» towards the Owner's Construction Budget, the Owner may terminate this contract except that part thereof pertaining to an expenditure of «FundLimit» toward construction, by written notice to the Contractor. In the event of such

termination, the Owner shall not be liable for any payment to the Contractor other than that required for an expenditure of «FundLimit» towards construction.

- 17.16 **ELECTRONIC EXECUTION** – This Agreement may be executed in two (2) 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 Department, upon the Department's request.
- 17.17 **NOTICES AND ELECTRONIC MAIL CAPABILITES** – Where the Contract Documents require one Party to notify or give notice to the other Party, such notice shall be provided in writing to the designated representative of the Party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic mail. Electronic mail (e-mail) may be used by the Parties using the e-mail addresses set forth in the Agreement with a reply e-mail confirming delivery of the email. The Contractor must have e-mail capabilities through the Internet. It is the intention of the Department of Management Services to use e-mail communication for all projects whenever possible. The Contractor shall provide and update their e-mail address and the name of a contact person responsible for their electronic communications.
- 17.18 **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).
- 17.19 **PUBLIC RECORDS**
- (1) To the extent Contractor is acting on behalf of Owner as provided under Subsection 119.011(2), Florida Statutes, Contractor 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, 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 Contractor 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 Contractor or keep and maintain public records required by Owner to perform the service. If the Contractor transfers all public records to Owner upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to 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 Contractor fails to provide the public records to Owner within a reasonable time the Contractor may be subject to penalties under Section 119.10, 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. Contractor 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 Contractor's failure to comply with the terms of this Section.
  - (3) **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT OWNER'S CUSTODIAN OF PUBLIC RECORDS, either through the Project Manager; by e-mailing [REDMProcurement@dms.fl.gov](mailto:REDMProcurement@dms.fl.gov); or by letter to DMS Division of Real Estate Development and Management, 4050 Esplanade Way, Tallahassee, Florida 32399.**

Any knowing violation of Chapter 119, Florida Statutes, may be sufficient grounds for immediate termination of the Contract by the Owner.

- 17.20 COOPERATION WITH THE INSPECTOR GENERAL AND AUDIT – The Owner may require an audit of the Contractor's records and books related to the Project. The audit shall be conducted by the Owner's personnel or authorized representative. The Owner reserves the right to audit at any time during construction and within five (5) years after the Substantial Completion of the Work. Contractor agrees to reimburse Owner and the State for the reasonable costs of investigation incurred by Owner, the Inspector General, State Auditor General, or other authorized State official or agent for investigations of Contractor'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. Contractor understands and will comply with the requirements of Section 20.055(5), Florida Statutes, including but not necessarily limited to, the duty of Contractor and any of Contractor'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.
- 17.21 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. For the avoidance of doubt, the Contractor's liability hereunder is not limited and the amounts and types of insurance and bonds required hereunder is not intended to reflect a limitation.
- 17.22 PROHIBITION AGAINST CONTINGENT FEES – Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Contractor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.
- 17.23 SUSPENDED VENDOR LISTS – The Contractor is not on the Suspended Vendor List; it and its suppliers, subcontractors, or consultants to be utilized under the contract are not on the Convicted Vendor, Discriminatory Vendor, Antitrust Violator Vendor, or Forced Labor Vendor Lists; and there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy the contract obligations. Placement on any of the identified lists herein may result in termination of the Agreement at the discretion of the Department.

The Contractor is hereby informed of the provisions of Sections 287.133(2)(a), 287.134(2)(a), 287.137(2)(a), 287.1346, and 787.06, F.S., that identify the impacts to the Contractor's 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, Discriminatory Vendor, Antitrust Violator Vendor, or Forced Labor Vendor Lists of the Department of Management Services. The Contractor is hereby further informed of the provisions of Section 287.1351, F.S., that identify the impacts to the Contractor's ability to enter into or renew a contract with an agency, as defined in Section 287.012, F.S., if it is placed on the Suspended Vendor List of the Department of Management Services.

- 17.24 COVID19 – The Contract Sum includes all amounts necessary to comply with all regulations, ordinances, and laws concerning COVID19, including personal protection equipment, sanitation, and social distancing requirements.
- 17.25 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>.

17.26 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>.

17.27 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 18 CONTINUING CONTRACTUAL SERVICES**

Article 18 refers to Continuing Contractual Services. This Article may be disregarded if this is not an Agreement for Continuing Services.

18.1 The Owner intends to periodically implement specific designated Projects in the Tallahassee 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.

18.2 The Contractor agrees to provide professional services for each specific designated Project as set forth when activated in writing by the Owner's Contracts Administrator.

18.3 SCOPE OF CONTRACT – This Agreement is entered into pursuant to Section 255.32, 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 Contractor will be at the Owner's discretion.

18.4 FEES AND ACTIVATION – Once the Owner identifies a Project to present to the Contractor under this Agreement, the Parties will conduct negotiations for fees and other conditions for the designated Project. The Contractor 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 Contractor.

18.5 ACTIVATION LETTER – A written document issued by the Owner's Contracts Administrator authorizing the Contractor to proceed with a specific Project. The Activation Letter will identify the Contractor'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 L.

18.6 TERM OF AGREEMENT – Unless terminated pursuant to Article 14, 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.

- 18.7 SUPPORTING DOCUMENTATION FOR INVOICES – In addition to the documents required in Article 12.2, the Contractor 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, and the signature page.

**ARTICLE 19  
FEDERAL FUNDS APPLICABILITY**

Article 19 is removed in its entirety. If Federal Funds apply to a project, an Amendment will be required to address the requirements. Article 19 and the corresponding Exhibits will be added back to the Agreement.

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written above.

**«CONTRNAME»**

Attest:

Approved:

By \_\_\_\_\_  
Corporate Secretary

By \_\_\_\_\_  
«CorpPres», Corporate President

As Witnessed:

By \_\_\_\_\_

(Corporate Seal)

---

**STATE OF FLORIDA  
DEPARTMENT OF MANAGEMENT SERVICES**

Attest:

Approved:

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

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

As Witnessed:

By \_\_\_\_\_  
Division of Real Estate Development and Management



## Exhibit A

### CONSTRUCTION TEAM ASSIGNED REPRESENTATIVES

#### Owner – Department of Management Services

«ProjDir»	Project Manager
«ContractsManager»	Contracts Administrator
Brian Fienemann	Director

#### Client - «Ownerentity»

«CAProjDir»	Project Manager
-------------	-----------------

#### Architect-Engineer - «AEName»

#### Contractor - «ContrName»

**Exhibit B**

**OWNER'S CONSTRUCTION BUDGET**

<u>ITEM DESCRIPTION</u>	<u>CONSTRUCTION BUDGET</u>
CONTRACTOR'S PRECONSTRUCTION PHASE FEE .....	«DesignPhaseFee»
CONTRACTOR'S CONSTRUCTION PHASE FEE .....	«ConPhaseFee»
CONTRACTOR'S OVERHEAD & PROFIT .....	«OPamt»
CONSTRUCTION BUDGET BALANCE .....	«ConstrBudgetBal»
OWNER'S TOTAL CONSTRUCTION BUDGET .....	«ConstrBudget»

**Exhibit C**

**CONTRACTOR'S PERSONNEL TO BE  
ASSIGNED DURING PRECONSTRUCTION PHASE**

<u>Individual</u>	<u>Title</u>	<u>Duration in Months</u>	<u>Percentage of Time Available</u>
-------------------	--------------	-------------------------------	---

**Exhibit D**

**CONTRACTOR'S PERSONNEL TO BE  
ASSIGNED DURING CONSTRUCTION PHASE**

***OFF-SITE SUPPORT STAFF***

<u>Individual</u>	<u>Title</u>	<u>Duration in Months</u>	<u>Percentage of Time Available</u>
-------------------	--------------	-------------------------------	---

***ON-SITE SUPPORT STAFF***

<u>Individual</u>	<u>Title</u>	<u>Duration in Months</u>	<u>Percentage of Time Available</u>
-------------------	--------------	-------------------------------	---

Exhibit E

CERTIFICATE OF SUBSTANTIAL COMPLETION BY CONTRACTOR (Example)

DEPARTMENT OF MANAGEMENT SERVICES
Division of Real Estate Development and Management

CERTIFICATE OF SUBSTANTIAL COMPLETION BY CONTRACTOR

PROJECT NAME: PROJECT NUMBER: OWNER: Department of Management Services Attention: ARCHITECT/ENGINEER: ADDRESS: CITY, STATE, ZIP: PHONE & FAX: CONTRACT FOR: CONTRACT DATE: DATE OF ISSUANCE: CONTRACTOR: ADDRESS: CITY, STATE, ZIP: PHONE & FAX: CERTIFICATE OF OCCUPANCY ISSUED: BUILDING PERMIT JURISDICTION: STATE FIRE MARSHAL APPROVAL ISSUED: PROJECT OR DESIGNATED PORTION SHALL INCLUDE:

The work performed under this Contract has been reviewed and found to be substantially complete. The Date of Substantial Completion of the project or portion thereof designated above is hereby established as [redacted] which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below.

DEFINITION OF DATE OF SUBSTANTIAL COMPLETION

The Date of Substantial Completion of the work or designated portion thereof is the date certified by the Architect-Engineer when construction is sufficiently complete, in accordance with the Contract Documents, so the owner can occupy or utilize the work or designated portion thereof for the use for which it is intended as expressed in the Contract Documents. Also, substantial completion can not be issued prior to issuance of a "Certificate of Occupancy" as well as State Fire Marshal approval.

A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents. The date of commencement of warranties for items on the attached list will be the date of final payment unless otherwise agreed to in writing.

ARCHITECT/ENGINEER SIGNATURE PRINTED NAME DATE

The Contractor will complete or correct the work on the list of items attached hereto within the time prescribed in the contract from the above Date of Substantial Completion.

CONTRACTOR SIGNATURE PRINTED NAME DATE

The Owner accepts the work or designated portion thereof as substantially complete.

Department of Management Services
Division of Real Estate Development
and Management

OWNER SIGNATURE PRINTED NAME DATE

Distribution to: DMS Contracts Administrator, DMS Project Director, Architect/Engineer, Contractor, Client Agency

**Exhibit F**

**CONTRACTOR'S AFFIDAVIT OF CONTRACT COMPLETION  
(Example)**

DEPARTMENT OF MANAGEMENT SERVICES  
Division of Real Estate Development and Management

**CONTRACTOR'S AFFIDAVIT OF CONTRACT COMPLETION**

AGENCY: \_\_\_\_\_  
PROJECT NUMBER: \_\_\_\_\_  
PROJECT NAME: \_\_\_\_\_  
CONTRACTOR: \_\_\_\_\_  
CONTRACT FOR: \_\_\_\_\_  
CONTRACT DATE: \_\_\_\_\_ CONTRACT AMOUNT: \_\_\_\_\_  
DATE ISSUED FOR SUBSTANTIAL COMPLETION: \_\_\_\_\_  
DATE ISSUED FOR FINAL COMPLETION:  

**CONTRACTOR'S AFFIDAVIT**

I solemnly swear and affirm: That the work under the above named contract and all amendments thereto have been completed in accordance with the requirements of said contract; that all costs incurred for equipment, materials, labor, and services against the project have been paid; that no liens have been attached against the project; that no suits are pending by reason of work on the project under the contract; that all Workmen's Compensation claims are covered by insurance, and that the Contractor shall save, protect, defend, indemnify, and hold the Owners harmless from and against any and all claims which arise as a direct or indirect result of any transaction, event or occurrence related to performance of the work contemplated under said contract.

CONTRACTOR: \_\_\_\_\_

\_\_\_\_\_  
(SEAL)

(Contractor must sign in the presence of a Notary)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledge before me by means of

physical presence or  online notarization this \_\_\_\_\_

(date)

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

a \_\_\_\_\_ corporation, on behalf of the corporation. He/She is personally  
(state/place incorporated)

known to me or has produced \_\_\_\_\_ as identification.  
(type of identification)

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Name typed printed or stamped)

DMS Form CM07 Revised 1/20

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 F (CONT'D)

### DEPARTMENT OF MANAGEMENT SERVICES Division of Real Estate Development and Management **CERTIFICATE OF CONTRACT COMPLETION BY CONTRACTOR**

PROJECT NO.: \_\_\_\_\_  
 PROJECT TITLE: \_\_\_\_\_  
 CONTRACTOR: \_\_\_\_\_  
 CONTRACT DATE: \_\_\_\_\_ DATE OF FINAL COMPLETION: \_\_\_\_\_

#### CERTIFICATE OF ARCHITECT/ENGINEER

I CERTIFY: That the work under the above contract has been satisfactorily completed on the date set forth in accordance with the terms of the contract; that the contractor has submitted his sworn affidavit as evidence that he has paid all labor, materials and other charges against the project in accordance with the terms of the contract.

Architect/Engineer Firm Name \_\_\_\_\_ Architect/Engineer Signature \_\_\_\_\_ Architect/Engineer Name Printed \_\_\_\_\_ Date \_\_\_\_\_

#### TO BE COMPLETED BY ARCHITECT/ENGINEER THROUGH

THE SUBSTANTIAL COMPLETION PHASE	DATE	DAYS	Liquidated Damages
1. Notice to Proceed (N.T.P)			
2. Time Specified in Original Contract for Substantial Completion (S.C.)			
3. Extension Granted by Change Orders (Days Between Original Contract S.C. and Final Contract			
4. Total Days Allowable to Substantial completion (Add Lines 2 and 3)		0	
5. Project Substantially Completed as Certified by A/E (Total Days from N.T.P. through Date certified by A/E)		0	
6. Substantial Completion overrun (Subtract Line 4 from 5 and Enter Overrun. If line 5 less than 4 enter 0.)		0	@\$ <input style="width: 50px;" type="text"/> Per Day=\$ <input style="width: 50px;" type="text"/> 0.00
<b>THE FINAL COMPLETION PHASE</b>			
1. Time Specified in Contract, Between Substantial & Final Completion			
2. Extensions Granted by Change Orders (Days Between S.C.& Final Completion			
3. Total Days Allowable Between Substantial & Final Completion (Add Lines 1 & 2)		0	
4. Date Actually Completed and Total Days Between Actual S.C. & Date Certified by A/E as Actually being Finally Completed.		0	
5. Final Completion Overrun (Subtract Line 3 from 4 and Enter Overrun. If line 4 less than 3 enter 0.)			@\$ <input style="width: 50px;" type="text"/> Per Day=\$ <input style="width: 50px;" type="text"/> 0.00
<b>TOTAL LIQUIDATED DAMAGES</b>			<b>\$0.00</b>

Project Director \_\_\_\_\_ Date \_\_\_\_\_

cc: DMS Contracts, Project Director, Architect/Engineer, Contractor, Client Agency

DMS Form AE11 Revised 4/07

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 G

# OWNER'S CERTIFICATE OF PARTIAL PAYMENT (Example)

### DEPARTMENT OF MANAGEMENT SERVICES Division of Real Estate Development and Management - Building Construction OWNER'S CERTIFICATE OF PARTIAL PAYMENT

Contractor (Name and Address): \_\_\_\_\_

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

State Project No: \_\_\_\_\_

Project Name: \_\_\_\_\_

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

Base Contract Calendar Days:	0
Adjusted Days by Change Order:	0
Revised Contract Days:	0
Elapsed Days to Date:	0
Net Days Remaining:	0
Estimated Days Ahead (+) or Behind (-):	0

Approved Change Orders (Attach additional pages if required)			
CO#	\$ AMOUNT	CO#	\$ AMOUNT
001	\$0.00	011	\$0.00
002	\$0.00	012	\$0.00
003	\$0.00	013	\$0.00
004	\$0.00	014	\$0.00
005	\$0.00	015	\$0.00
006	\$0.00	016	\$0.00
007	\$0.00	017	\$0.00
008	\$0.00	018	\$0.00
009	\$0.00	019	\$0.00
010	\$0.00	020	\$0.00
<b>Subtotal</b>	<b>\$0.00</b>	<b>Subtotal</b>	<b>\$0.00</b>
<b>Total Net Change Orders \$</b>		<b>0.00</b>	

Original Contract Sum.....	\$	
Change Orders (Net).....	\$	0.00
Contract Sum To Date.....	\$	0.00
Completed To Date.....	\$	
Materials Stored.....	\$	
Total Completed & Stored.....	\$	0.00
Less Retainage ***** %..	\$	
<b>TOTAL.....</b>	<b>\$</b>	<b>0.00</b>
Less Previous Certificates.....		
Balance To Finish.....	\$	0.00
<b>THIS CERTIFICATE PAY THIS AMOUNT</b>		<b>\$ 0.00</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:		\$0.00

**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 materialmen, laborer and subcontractor, as defined in Chapter 713.01, Florida Statutes, upon receipt of payment from the Owner, out of the amount paid to me on account of such materialman's laborer's or subcontractor's work, the amount to which said materialman, laborer and subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to myself on account of such materialman's, laborer's and subcontractor's work.

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)

\_\_\_\_\_  
(type of identification) (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:**  
\_\_\_\_\_  
Date: \_\_\_\_\_  
Architect-Engineer

**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."

\_\_\_\_\_  
Date: \_\_\_\_\_  
Owner's Project Manager  
DMS Form CM03 Revised 3/2020



# Exhibit H

## 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 12/20)
- \_\_\_ Form CM03 – Pay Request - 1 electronic copy
- \_\_\_ 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
- \_\_\_ Form AE11 - Certificate of Contract Completion 1 completed by A/E - 1 electronic copy
- \_\_\_ 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
- \_\_\_ Form AE18 - ADA Compliance Certificate
- \_\_\_ 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)

**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 2/2021

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

CONTRACTOR'S STATUS OF CERTIFIED BUSINESS ENTERPRISE (CBE)  
SUBCONTRACTORS  
(Example)

DEPARTMENT OF MANAGEMENT SERVICES  
Division of Real Estate Development and Management  
**CONSTRUCTION MANAGER'S STATUS REPORT OF CERTIFIED BUSINESS ENTERPRISE (CBE) SUBCONTRACTORS**

Contractor (Company Name, Street Address, City & Zip Code)

DMS Project Number

DMS Project Name

Contract Amount

Provider's Invoice #

Date  
mm-dd-yyyy

**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 FEIN #	*CBE Code	Description of Service	CBE Vendor Payment Amount
<b>TOTALS</b>								

\*OSD Certification Status: Check certification status using the OSD Certified Businesses Directory at <https://osd.dms.myflorida.com/directories> or MyFloridaMarketPlace (MIFMP) Vendor Information Portal at <https://vendor.myfloridamarketplace.com>

\*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 850-487-0815.

INCLUDE THIS FORM WITH DMS FORM CM03

## Exhibit J

### NOTICE TO PROCEED (Example)



#### Real Estate Development and Management

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

**Ron DeSantis, Governor**

Date

Contact

Company

Address

City, FL 32312

RE: (Project Number)

(Project Name)

#### **Notice to Mobilize on Site and to Proceed with Construction**

(Insert Mr. or Ms and Name):

Based upon issuance of the following project related permits: (NOTE: Include all permits needed for NTP. Complete each column before tabing to next one. Example: Enter permit name, hit enter, add another permit name. When done with permit names, tab to Jurisdiction column and complete as before).

PERMIT	JURISDICTION	NUMBER	DATE
(Type)	Location	(Permit #)	(Permit Date)

Your firm may mobilize the site and proceed with construction.

This establishes the contract commencement date as (Insert Commencement Date) and (Insert Substantial Completion Date) as the required date of substantial completion based upon (Insert Contract Days) contract calendar days.

The State's Project Manager, (Name), will represent the Owner in matters pertaining to the project.

(Delete or change the following if not needed) An Initial Construction Conference will be scheduled by the Architect/Engineer. The conference is not a prerequisite to commencing work on the project.

We look forward to a pleasant association.

Sincerely,

(Name)

Project Manager

Real Estate Development and Management

(Insert Street Address & Suite #)

(Insert City, State & Zip Code)

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_

cc:

DMS Contracts Section, (DMS-Facility Manager Name)

(Architect-Engineer Name), (Client Agency Name)

DMS Form PD10 Revised 8-19

## Exhibit K

# CONTRACTOR'S PARTIAL PAYMENT ROUTING TRANSMITTAL (Example)

DEPARTMENT OF MANAGEMENT SERVICES  
Division of Real Estate Development and Management - Building Construction

## RUSH

### Contractor's Partial Payment Routing Transmittal

Payment Request # \_\_\_\_\_

Payment Request Date \_\_\_\_\_

Contractor (Company Name, Address, Phone, Fax)

DMS Project Number: \_\_\_\_\_

DMS Project Name: \_\_\_\_\_

### ALL RECIPIENTS

*The attached payment requisition represents a sizable sum of money which is due and payable. Therefore, in order to comply with Florida Law, each recipient must act promptly in handling the attached payment requisition, recording dates, amount approved for payment, voucher number(s), and warrant number(s), as applicable and in initialing and retaining copy.*

#### CONTRACTOR

Complete this RUSH Contractor's Partial Payment Routing Transmittal Form (CM02), Certificate of Partial Payment Form (CM03) and Pay Application Audit Summary (CM03a). **The pay application will be submitted electronically.** Forward **ONE (1) COMPLETE SET**, of the following, to the Project ARCHITECT/ENGINEER (A/E). If no A/E, then forward directly to DMS Project Manager.

- One (1) original Routing Transmittal (CM02)
- One (1) original Certificates of Partial Payment (Form CM03)
- One (1) original Pay Application Audit Summaries (Form CM03a)
- One (1) Schedule of Values
- One (1) complete sets of support documentation
- One (1) CM Status Report of Certified Business Enterprise (CBE) (CM05)
- One (1) copy of your Activation Letter or the payment portion of your Contract (including GMP Contract)

Note: Payment Requests not properly prepared as to form, content, or back-up data will be returned for correction and resubmission. If you have any questions contact the DMS Project Manager.

CONTRACTOR INITIALS	DATE FORWARDED	REQUESTED PARTIAL PAYMENT \$ AMOUNT
---------------------	----------------	-------------------------------------

#### ARCHITECT-ENGINEER

Review, approve, and sign if everything is in order and the services have been approved and backup is complete. This should not take longer than two to three days.

Forward **ONE (1) COMPLETE SET**, of the following, to the DMS Project Manager for final review and approval.

- One (1) original Routing Transmittal (CM02)
- One (1) original Certificates of Partial Payment (Form CM03)
- One (1) original Pay Application Audit Summaries (Form CM03a)
- One (1) Schedule of Values
- One (1) complete sets of support documentation
- One (1) CM Status Report of Certified Business Enterprise (CBE) (CM05)
- One (1) copy of your Activation Letter or the payment portion of your Contract (including GMP Contract)

Note: Approval should not take longer than two to three days before forwarding to the DMS Project Manager for final review and approval or a percentage of interest may be paid to the Contractor.

DATE RECEIVED	DATE FORWARDED	ARCHITECT-ENGINEER'S INITIALS	REVIEWED & APPROVED REQUESTED PARTIAL PAYMENT \$ AMOUNT
---------------	----------------	-------------------------------	---

#### DMS PROJECT MANAGER

Review, approve and sign this payment request promptly. If everything is in order and the services have been approved, approval should not take longer than two to three days before forwarding to the Client Agency (CA) for vouchering or a percentage of interest may be paid to the Contractor. Forward to CA for vouchering (one (1) complete set) as follows: Routing Transmittal, Certificate of Partial Payment with a Schedule of Values and support documentation, and Pay Application Audit Summary. Retain one (1) complete set in DMS project files.

DATE RECEIVED	DATE FORWARDED	PROJECT DIRECTORS INITIALS	APPROVED PARTIAL PAYMENT \$ AMOUNT
---------------	----------------	----------------------------	------------------------------------

#### CLIENT AGENCY

Client Agency: This payment request has been reviewed and approved by the DMS Project Manager for payment. After vouchering is complete, forward to Division of Financial Services 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 Contractor. Upon receiving warrant from Financial Services, mail warrant to Contractor 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 Financial Services, completed copies of the invoice and support documentation as altered should be sent to the Contractor and Project Manager. Please call the DMS Project Manager if you have any questions or comments concerning this partial payment request.

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

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 L**

**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

January XX, 2025

ABC Construction Corporation  
James Jones, President  
1234 Main Street  
Tallahassee, Florida 32333

RE: MSFM-XXXXXXX  
DMS Building, Design and Build Elevator Modernization  
Capitol City, Florida

Continuing Contract Identifier: CM-XXXX  
Activation No.: XX  
FEID: 59-XXXXXXX  
State FLAIR Code: XXXX

Dear Mr. Jones:

Under the terms of Article 2.2 of the above referenced Continuing Contract, we accept your proposal dated January XX, 2024, for services on the above referenced Project.

You are hereby authorized to commence Preconstruction Phase services in the amount of \$XX,XXX.00. A separate construction authorization or a Guaranteed Maximum Price activation must be issued prior to the commencement of the Construction Phase services.

The scheduled completion date for all Preconstruction Phase services is XX calendar days.

Monthly invoices shall be rendered in accordance with the approved Schedule of Contract Values. *Each invoice must be accompanied by a copy of this activation letter.*

Please continue your work under the direction of our Project Manager, Tom Smith. Thank you in advance for your services.

Sincerely,

Approved

\_\_\_\_\_  
XXX, Contracts Administrator  
Contracts Section

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

cc Tom Smith – DMS Project Manager  
Fiscal - - DMS

12/2025