



REQUEST FOR PROPOSAL

DESIGN BUILD: ADMINISTRATIVE SERVICE COMPLEX BID #2023-02

Bid Due: Monday, October 16, 2023
2:00 PM



Indian River County Sheriff's Office
4055 41st Ave
Vero Beach, FL 32960
www.ircsheriff.org
772-569-6700





NOTICE OF REQUEST FOR PROPOSAL

Proposal documents must be submitted through Bonfire's electronic submission portal. Hand delivered or mailed submissions will not be accepted and those proposals shall be deemed non-responsive. It is the Bidder's responsibility to ensure that bids are uploaded in the portal on or before the stated date and time.

Solicitation Documents may be obtained via DemandStar, the Indian River County Sheriff's Office website <https://ircsheriff.org/vendor-resources>, or Bonfire's portal. Bidders who obtain solicitation documents from any other source are cautioned that the solicitation package may be incomplete. Furthermore, all addenda issued will be posted and disseminated via Bonfire. Bidders obtaining RFP documents from the Purchasing Department website must download and print the solicitation package at the proposed bidders' expense (*copies will not be provided*); additionally, proposed bidders must check the website daily to download any addenda items.

Project Name:	Design Build: Administrative Service Complex
Bid #:	2023-02
Electronic Publishing Date:	Monday, August 28, 2023
Advertising Dates:	September 2, 9, 16, 23, 30 th , 2023
Pre-Bid Meeting and Site Visit:	Monday, September 11, 2023 at 10:00 AM
Discussion Deadline:	Friday, October 6, 2023 at 2:00 PM
RFP Closing Date:	Monday, October 16, 2023, No Later Than 2:00 pm
Interviews:	October 23 rd – October 25 th , 2023
Negotiations/Clarification Phase:	October 30 th – November 1 st , 2023
Notice of Award	November 6, 2023 (<i>subject to change depending on clarification and negotiations phase</i>)
Anticipated Notice to Proceed:	November 15, 2023
Communication Requirements:	All communication regarding this RFP must be submitted in writing via the Bonfire portal prior to the deadline for questions. No verbal interpretations shall be made and all responses will be provided via an addenda.
Submittal Requirements:	See Section 3.0- Submission Requirements of the solicitation documents
Scope of Work Overview: The Indian River County Sheriff's Office is soliciting Requests for Proposals (RFP) for the construction of a new building using the Design Build procurement approach. The new building will be approximately 27,000 square feet and will service as the Administrative Service Complex for several departments within the agency. The Design Build Team must consist of an architect, engineer, and contractor.	

Bidders may not withdraw their bid submittal for a period of ninety (90) calendar days after the day set for the opening of bids.

Each proposal will be considered by Indian River County Sheriff's Office, taking into consideration specific evaluation factors, as set forth in this request for proposal (RFP). The Sheriff's Office reserves the right to waive any informalities or irregularities, reject any and all bids that are incomplete, conditional, non-responsive, or which contain additions not allowed for; to reject any or all bids in whole or in part with or without cause; to award in whole or in part to one or more Bidders, and to accept the bid which best serves the agency.



ADVERTISEMENT PUBLICATION

Indian River County Sheriff's Office
4055 41st Avenue
Vero Beach, FL 32960

RFP #2023-02
ADMINISTRATIVE SERVICE COMPLEX

The Indian River County Sheriff's Office is soliciting sealed proposals using the Design Build procurement method, of a new Administrative Service Complex, electronically **until 2:00 PM, Monday, October 16, 2023**. The Design Build Team must consist of an architect, engineer, and contractor. **ALL PROPOSALS MUST BE SUBMITTED THROUGH BONFIRE'S ELECTRONIC SUBMISSION PORTAL.**

There will be a MANDATORY Pre-BID Conference and Site Visit on Monday, September 11, 2023, at 10:00 AM at the Indian River County Sheriff's Office, located at 4055 41st Avenue, Vero Beach, FL 32967.

NOTE: Contractor and all subcontractors must obtain a business license, be fully insured, and registered with E-Verify. The successful BIDDER must secure and pay for all permits, assessments, charges, or fees associated with business licensing requirements. BIDDERS selected to interview must submit insurance and BID bond requirements via Bonfire prior to **Monday, October 23, 2023** (no exceptions or late response will be permitted).

Consultants must maintain the following insurance:

- A) Comprehensive General Liability, including blanket contractual, covering bodily injuries with limits of no less than \$1,000,000.00 per occurrence, and property damage with limits of no less than \$1,000,000.00 per occurrence.
- b) Commercial Automobile Liability, including blanket contractual, covering bodily injuries with limits of no less than \$1,000,000.00 per occurrence, and property damage with limits of no less than \$1,000,000.00 per accident.
- c) Statutory Worker's Compensation Insurance, including \$1,000,000.00 employer's liability insurance. All insurance shall be provided by an insurer(s) acceptable to the IRCISO and shall provide for thirty (30) days prior notice of cancellation to the IRCISO. Upon request, Contractor shall deliver to the IRCISO a certificate or policy of insurance evidencing Contractor's compliance with this paragraph. Contractor shall abide by all terms and conditions of the insurance and shall do nothing to impair or invalidate the coverage.

Solicitation Documents may be obtained by registering with BonFire (Euna) or the Indian River County Sheriff's Office website, <https://ircsheriff.org/vendor-resources>. Bidders who obtain solicitation documents from any other source are cautioned that the solicitation package may be incomplete. Furthermore, all addenda issued will be posted and disseminated by Bonfire to plan holder's/members.

Digital copies of the BID DOCUMENTS may be obtained via Bonfire. Hard copies of BID DOCUMENTS may be obtained at the Procurement Office located in the main administration building (BLDG H) of the Sheriff's Office upon a non-refundable payment of \$25.00 for each set. The Sheriff's Office is not

Electronic Publishing Date: Monday, August 28, 2023
Advertising Dates: September 2, 9, 16, 23, 30th, 2023

obligated to consider a Design Build Team's BID if they are not on record with the issuing office as having received complete Proposal Documents.

There will be a mandatory pre-bid conference, including a site visit, on Monday, September 11, 2023 at 10:00 AM, at the Indian River County Sheriff's Office, Administration Building- Building H, Vero Beach, FL 32960. All prospective Bidders are required to attend.

Firms desiring to provide the services described above shall submit one (1) completed bid package, containing all of the required information, and upload the documents into Bonfire's electronic portal.

Questions: must be submitted via the Bonfire portal

All bids will be screened privately with a panel of evaluators. Bids submitted after 2:00 PM on the day specified above, will not be opened or considered.

The Indian River County Sheriff's Office reserves the right to cancel the bid, accept or reject any and all bids in whole or in part, and to waive any technicality or irregularity.

End of Advertisement Publication

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Section 2.0- Introduction

Definitions

Bidder – Individual or entity submitting a bid to Owner.

Design Build Team – Best value bidder to whom Owner makes award.

Owner – Indian River County Sheriff's Office (IRCSO)

2.1- Invitation to Respond

This solicitation is both a request for qualifications and a request for proposal ("RFP"). The Indian River County Sheriff's Office (IRCSO) seeks proposals from qualified firms/teams to provide Construction Management-at-Risk (CMR) services, Architectural Design services, and engineering services in connection with the solicitation *Design Build: Administrative Service Complex* (the "Project"). Indian River County Sheriff's Office provides equal opportunity for all businesses and does not discriminate against any person or business because of race, color, religion, sex, national origin, and handicap or veteran's status. The services to be performed are detailed in Section 3.0- Submission Requirements, Section 4.2- General Scope of Work, and Section 4.3- Specific Scope of Work.

2.2- Project Description

As a result of a spatial needs assessment, the Indian River County Sheriff's Offices (IRCSO) has identified the necessity to expand the campus in order to continue providing enhanced services to the citizens of Indian River County. The Administrative Service Complex will be located in the northeast field of the main administration building. The following information is provided to assist the Design-Build firm(s) or team(s) in determining if they have the necessary project experience to submit a proposal and be considered for this project:

SCOPE

- General Scope of Services
 - Includes complete CM pre-construction services; cost management; schedule management; low voltage design systems; materials testing consultation teams; submissions and permitting to all authorities having jurisdiction regarding this project, including but not limited to: IRC Building Department, Fire Services, etc.; full construction management; design-build and post construction services. (Refer to Attachment A- General Scope of Work for exact details.)
- Conceptual Masterplan
 - Services include, but are not limited to: Building programming, exterior programming, conceptual master plan diagram development, and planning meetings.
- Comprehensive Design Phase:
 - Design-Build team shall assist the Indian River County Sheriff's office in developing preliminary building programming for an estimated 27,000 sq foot building that shall consist of:
 - Dedicated space for the Information Technology Unit, with the desired project outcomes to provide- reinforced mechanical/server room, 15 offices, 2 bathrooms, conference/training room, dedicated storage, and a kitchen.
 - Dedicated space for the Human Resources Unit, with the desired project outcome to provide- 6 offices, a conference room, waiting/staging area, interview/pre-employment testing area, kitchen, and two bathrooms.
 - Dedicated space for the Finance Division, with the desired project outcomes to provide- 14 offices, large store front for the Company Store, 2 storage areas, kitchen,

- conference room, 3 bathrooms.
 - Dedicated space for the Professional Standards Unit and the Internal Affairs Section, with the desired project outcome to provide 12 offices, attorney/client room, dedicated interview room, a conference room, 2 bathrooms, and a kitchen.
- Pre-Construction Phase
 - Immediately following the completion of the Comprehensive Design Phase, the Design-Build Team shall prepare and submit a Guaranteed Maximum Price Proposal, that will be evaluated against budget allocations to determine specific scope to be achieved.
- Construction Phase
 - Design-Build Team shall ensure pre-construction and post-construction are completed for as low a cost as practical without sacrificing the Owner's requirements, design standards, and/or long-term operating lifecycle costs.

2.3- General Terms and Conditions

Cone of Silence. Potential bidders and their agents must not communicate in any way with the Sheriff's Office or any Indian River County staff other than Procurement personnel in reference or relation to this solicitation. This restriction is effective from the time of bid advertisement until the Sheriff's Office meets to authorize award. Such communication may result in disqualification.

Interpretations: No oral interpretations will be made to any Bidder as to the meaning of the Specifications. Every request for such an interpretation shall be made in writing and submitted in Bonfire prior to the close of the question period **ending October 6, 2023**. The Sheriff's Office shall not be responsible for oral interpretations given by any IRCISO employee. Every interpretation made to bidder will be in the form of an Addendum to the specifications, which if issued, will be sent promptly as is practical to all persons to whom specifications have been issued. All such Addenda shall become part of the specifications. Further, it shall be the responsibility of each bidder, prior to submitting their bid, to determine if addenda were issued and to make such addenda a part of their bid. Addenda items are NOT subject to automatic notifications and it shall be the responsibility of the bidder to frequently check for addenda items prior to submission.

Licensure: Bidder must possess licensure as indicated by the State of Florida and must be compliant with any requirements issued by the Florida Department of Business and Professional Regulation. Indian River County Code section 400.01 (1) requires that "No person shall engage in the business of construction, contracting or subcontracting, as regulated by Florida Statutes or in a [any] category[ies] listed in **Appendix A to Ordinance No. 94-16 without a valid certificate of competency issued by the Indian River County Building Department** unless certified under Florida Statutes". Bidders who do not hold the appropriate licensure at the time of bid opening will be deemed non-responsive.

Insurance:

- **Owners and Subcontractors Insurance:** The Contractor shall not commence work until they have obtained all the insurance required under this section, and until such insurance has been approved by the owner, nor shall the contractor allow any subcontractor to commence work until the subcontractor has obtained the insurance required for a contractor herein and such insurance has been approved unless the subcontractor's work is covered by the protections afforded by the Contractor's insurance.
- **Worker's Compensation Insurance:** The Contractor shall procure and maintain worker's compensation insurance to the extent required by law for all of their employees engaged in work under this contract. In case any employees are to be engaged in hazardous work under this contract, and are not protected under the worker's compensation statute, the Contractor shall provide adequate coverage for the protection of

such employees.

- Public Liability Insurance:** The Contractor shall procure and maintain broad form commercial general liability insurance (including contractual coverage) and commercial automobile liability insurance in amounts not less than shown below. The Owner shall be an additional named insured on this policy with respect to all claims arising out of the operations or work to be performed.

<p>Commercial General (Public) Liability, other than Automobile</p> <p>\$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage</p>	<p>A. Premises/Operations</p> <p>B. Independent Contractors</p> <p>C. Products/Completed Operations</p> <p>D. Personal Injury</p> <p>E. Contractual Liability</p> <p>F. Explosion, Collapse, and Underground Property Damage</p>
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<p style="text-align: center;">Automobile</p> <p>\$1,000,000.00 Combined Single Limit for Bodily Injury and Property Damage</p>	<p>A. Owner Leased Automobiles</p> <p>B. Non-Owned Automobiles</p> <p>C. Hired Automobiles</p> <p>D. Owned Automobiles</p>
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Proof of Insurance: The Contractor shall furnish the owner a certificate of insurance in a form acceptable to the owner for the insurance required. Such certificate or an endorsement provided by the contractor must state that the owner will be given thirty (30) days written notice prior to cancellation or material change in coverage. Copies of an endorsement-naming owner as Additional Insured must accompany the Certificate of Insurance.

Variations to Specifications: For purposes of evaluation, Bidder must indicate any variances from the specifications and / or conditions on the form provided with this Request for Proposal. Otherwise, it will be assumed that the product or service fully complies with the specifications. Items specifically described, as alternates shall be reviewed as an alternative bid to be considered by the Sheriff's Office, in lieu of the primarily specified item(s). However, item(s) varying from the published specifications shall be considered substitutes, and the Sheriff's Office reserves the right to consider or not to consider substitute bids.

Bid Submission: All bids must be uploaded in Bonfire's electronic submission portal. Hand-delivered, email copies, or any other forms of submission outside of Bonfire shall be deemed non-responsive and discarded.

Errors: When an error is made in the bid extension of generating total bid prices or in any other process of completing the bid, the original unit prices submitted will govern. Discrepancies between words and figures will be resolved in favor of the words. Carelessness in quoting prices, or in preparation of the bid otherwise, will not relieve the bidder from performance.

Bid Rejection: Failure to comply with all the enclosed instructions may result in rejection of the bid.

Consideration of Bids: Verbal, emailed or faxed bids will not be considered.

Irrevocable Offer: Bidder warrants by virtue of submitting a signed bid, that the prices quoted will remain firm and be considered an irrevocable offer for a period of ninety (90) days, during which time one or more of the bids received may be accepted by the Sheriff's Office and shall deem the offer accepted upon approval.

Withdrawal of Bids: A bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time of opening of bids. If, within 48 business hours after Bids are opened, any bidder files a duly signed written notice with

Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that bidder may withdraw its bid and bid security will be returned. Thereafter, if the work is rebid, that bidder may be disqualified from further bidding on the work.

Co-Operative Purchasing: It is the intent of the request for proposal to secure goods and/or services to be used by the Indian River County Sheriff's Office. However, by virtue of bidding, the bidder accepts the right of other Florida Governmental agencies to purchase from this bid proposal, when appropriate. The successful bidder and the requesting Governmental agency, apart from Indian River County Sheriff's Office, shall handle any such purchases separately. Further, the Sheriff's Office assumes no liability for materials or services ordered by any other Governmental agency by virtue of this bid. Bidders that find this condition unsatisfactory should indicate this by showing exception on the Bid Form.

Public Record Exemption: Correspondence, materials, and documents received pursuant to this Invitation for Bid become public records subject to the provisions of Chapter 119, Florida Statutes. Should the Bidder assert any exemptions to the requirements of Chapter 119, Florida Statutes, and related statutes, the burden of establishing such exemption, by the way of injunctive or other relief as provided by law, shall be upon the Bidder.

Local Preference: Indian River County has no local ordinance or preferences, as set forth in Florida Statutes section 255.0991(2) in place, therefore no preference prohibited by that section will be considered in the acceptance, review or award of this bid.

Supplemental Information: The Sheriff's Office reserves the right to conduct such investigations as it deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed subcontractors, suppliers, and other relevant parties to perform and furnish the work. To demonstrate qualifications to perform the work, each Bidder must be prepared to submit, within 5 days of Owner's request, written evidence, such as financial data, previous experience, present commitments, and other such data as may be necessary to prove to the satisfaction of the Owner that the Bidder is qualified by experience to do the work and is prepared to complete the work within the stated time period. Failure to provide any requested information may result in the determination of the Bidder as non-responsible.

Awards: The Sheriff's Office reserves the right to cancel the bid, accept or reject any and all bids in whole or in part, and waive any irregularity or technicality in bids received. When it is determined there is no competition to the lowest responsive, responsible Bidder, rebidding of the project is not required. Bidders are cautioned to make no assumptions unless their bid has been evaluated as being responsive. The Sheriff's Office reserves the right to not make any award(s) under this bid.

Bid Protest: Any actual or prospective bidder or proposer who is aggrieved in connection with a competitive selection process may protest to the Procurement Manager. The protest shall be submitted to the Procurement Manager in writing within seven (7) calendar days after the bidder or proposer knows or should have known of the facts giving rise to the protest. If the protest is not resolved by mutual agreement, the Procurement Manager shall promptly issue a decision in writing, after consulting the using Division and Legal Counsel.

Applicable Law and Venue: The resulting Agreement and all rights and duties of the parties hereto shall be governed by the laws of the State of Florida, including but not limited to the provisions of the Florida Uniform Commercial Code Chapters 671-679 F.S., for any terms and conditions not specifically stated within. Venue for any lawsuit brought by either party against the other party or otherwise arising out of this Contract shall be in Indian River County, Florida, or, in the event of a federal jurisdiction, in the United States District Court for the Southern District of Florida.

Cancellation: It is the intention of the Sheriff's Office to purchase material and / or services from sources of supply that

will provide prompt and convenient shipment and service. Any failure of the supplier to satisfy the requirements of the County shall be reason for termination of the award.

Termination by the Owner: The Sheriff's Office reserves the right to terminate a contract by giving thirty (30) days' notice, in writing, of the intention to terminate, if at any time the contractor fails to abide by or fulfill any of the terms and conditions of the contract. The Sheriff's Office also reserves the right to terminate this contract for convenience of the Sheriff's Office and / or with or without cause.

Non-Collusion: By signing and submitting the Bid Form, the Bidder certifies that,

- This bid has been arrived at by the Bidder independently and has been submitted without collusion, and without any agreement, understanding, or planned common course, or action with, any vendor of materials, supplies, equipment, or services described in the invitation to bid, designed to limit independent bidding or competition, and
- The contents of the bid have not been communicated by the Bidder or its employees or agents to any person not an employee or an agent of the bidder or its surety on any bond furnished with the bid, and will not be communicated to any such person prior to the official opening of the bid.
- No attempt has been made or will be made by the Bidder to induce any other person(s) or firm(s) to submit or not to submit a bid for the purpose of restricting competition.

Conflict of Interest: Any entity submitting a bid or proposal or entering into a contract with the Sheriff's Office shall disclose any relationship that may exist between the contracting entity and a Sheriff's Office or a County Employee. The relationship with a Sheriff's Office or a County Employee that must be disclosed is as follows: *father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, or grandchild*. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of the entity. The disclosure of relationships shall be a sworn statement made on a Sheriff's Office approved form. Failure to submit the form may be cause for rejection of the bid or proposal.

Public Entity Crimes: Pursuant to Florida Statutes Section 287.133(2)(a), all Bidders are hereby notified that 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, proposal, or reply on a contract to provide any goods or services to a public entity (defined as the State of Florida, any of its departments or agencies, or any political subdivision); may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies 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 Florida Statutes Section 287.017 for CATEGORY TWO [currently \$35,000] for a period of 36 months from the date of being placed on the convicted vendor list. A "public entity crime" means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

Suspension and Debarment: The Sheriff's Office will not make award to parties listed on the government-wide exclusions in the System for Award Management (SAM). The bidder agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any

contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions. By submittal of a bid in response to this solicitation, bidder asserts neither it nor its principals is presently debarred, suspended or proposed for debarment, declared ineligible, or voluntarily excluded from participation in this work by any Federal department or agency. For work funded by federal grant, contractor is required to have an active registration with the System for Award Management (SAM) (<https://www.sam.gov>) prior to execution of the agreement.

Scrutinized Companies Lists: The bidder certifies that it and those related entities of respondent as defined by Florida law are not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 of the Florida Statutes, and are not engaged in a boycott of Israel. In addition, if this agreement is for goods or services of one million dollars or more, Contractor certifies that it and those related entities of respondent as defined by Florida law are not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473 of the Florida Statutes and are not engaged in business operations in Cuba or Syria. The Sheriff's Office may terminate this Contract if Company is found to have submitted a false certification as provided under section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, as defined by section 287.135, Florida Statutes. The Sheriff's Office may terminate this Contract if Company, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies that exist for the purpose of making profit, is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as set forth in section 215.4725, Florida Statutes.

Accordingly, firms responding to this solicitation shall return with their response an executed copy of the attached "Certification Regarding Prohibition Against Contracting With Scrutinized Companies." Failure to return this executed form with submitted bid/proposal/statement of qualifications will result in the response being deemed non-responsive and eliminated from consideration.

Non-Discrimination: The Sheriff's Office will not knowingly do business with vendors or contractors who discriminate on the basis of race, color or national origin, sex, sexual orientation, gender identity, age and/or disability. Through the course of providing services to the Sheriff's Office, Contractors shall affirmatively comply with

all applicable provisions of Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987 and the Florida Civil Rights Act of 1992, as well as all other applicable regulations, guidelines and standards. Any person who believes their rights have been violated should report such discrimination to the County's Title VI/Nondiscrimination Coordinator through the office of the County Attorney.

E-Verify: Bidder must be registered with and use, at their sole expense, the Department of Homeland Security's E-Verify system (www.e-verify.gov) to confirm the employment eligibility of all newly hired employees, as required by Section 448.095, F.S. Owner, contractor, and subcontractors may not enter into a contract unless each party to the contract registers with and uses the E-Verify system. Contractor is responsible for obtaining proof of E-Verify registration for all subcontractors. This requirement applies to any provider of services or goods.

Assignment/Delegation: No right, obligation or interest in an awarded Agreement may be assigned or delegated by the Bidder without prior written consent of the Sheriff's Office, without prejudice to the Sheriff's Offices other rights and remedies.

Energy Policy and Conservation Act – The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (when applicable).

Compliance with Laws and Regulations: Bidder agrees that they will comply with all Federal, State, and Local Laws and Regulations applicable to the production, sale, and delivery of the goods or the furnishing of any labor or services called for by the resulting Agreement, and any provisions required thereby to be included herein shall be deemed to be incorporated herein by reference. Noncompliance may be considered grounds for termination of contracts.

Affirmative Steps: CONTRACTOR must take the following affirmative steps to ensure minority business, women's business enterprises and labor surplus area firms are used when possible:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
2. Ensuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
5. Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

DHS Seal: If this project is federally-funded, the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials shall not be used by the Bidder without specific FEMA pre-approval.

Indemnification: CONTRACTOR shall defend, indemnify and hold harmless the Sheriff's Office, officers, employees and agents, from any and all losses, damages, expenses (including reasonable attorney's fees) and other liabilities of any type whatsoever, arising out of or relating to any negligence, intentional tort, breach of contract, or breach of applicable law by the contractor, or its employees, agents, subcontractors, or other persons or entities performing work under the contract.

Records/Audit: The Bidder shall maintain books, records and documents pertinent to performance under this Invitation and any resulting Agreement in accordance with generally accepted accounting principles consistently applied. The Sheriff's Office and the Florida Office of the Inspector General shall have inspection and audit rights to

such records for audit purposes during the term of the contract and for three years following the termination of obligations hereunder. Records which relate to any litigation, appeals or settlements of claims arising from performance under this work or purchase shall be made available until a final disposition has been made of such litigation, appeals, or claims.

Public Access: The Bidder shall allow public access to all documents and materials in accordance with the provisions of Chapter 119, Florida Statutes.

Delivery Requirements: Delivery of goods is "FOB Destination" unless delivery terms are specified otherwise in the specifications. If the Sheriff's Office agrees in writing to reimburse Seller for transportation costs, the Sheriff's Office shall have the right to designate the method of shipment. In either case, the title and all risk of loss of the goods shall remain with the Seller until the goods are received and accepted by the Sheriff's Office. Rejected materials will be returned to Seller at the Seller's risk and expense.

Descriptive Information: Descriptive literature including Specifications must accompany your bid. Manufacturer's name and model numbers are used herein solely for the purpose of establishing a standard of design, quality, and use of the merchandise required. Products of other manufacturers will be acceptable if they meet or exceed established standards with the exception of those items specified "NO SUBSTITUTION".

Domestic Preference for Procurement: In accordance with 2 CFR 200.322, the Sheriff's Office will extend a preference for the purchase, acquisition or use of goods, products or materials produced in the United States (including, but not limited to iron, aluminum, steel, cement and other manufactured products), to the maximum extent practicable.

Price and Discount Requirements: Quote net prices after deducting trade discounts. All discounts must be incorporated in the prices contained in the bid, and not shown separately. Invoices submitted must agree with the prices formally bid.

Taxes: The Sheriff's Office is exempt from any taxes imposed by State and / or Federal Government. Exemption Certificates, if required, are to be furnished by the successful bidder and will be filled out by the Sheriff's Office.

Delivery and Completion Dates: Indicate delivery and completion dates. This may be a determining factor in the award of the bid. The Sheriff's Office may, at its option, grant additional time for any delay or failure to perform hereunder if the delay will not adversely affect the best interests of the Sheriff's Office and is due to causes beyond the control of the Bidder. Such grant must be in writing and made part of the resulting Agreement.

Acceptance: Receipt of an item shall not be an indication that the items are acceptable. Final acceptance and authorization of payment shall be given after a thorough inspection indicates that the item is delivered in accordance with the Bid Specifications. Suppliers are advised that in the event the delivered item does not meet specifications, payment will be withheld until such time the supplier takes necessary corrective action.

Default Provision: In case of default by the Bidder, the Sheriff's Office may procure the articles or services from other sources and hold the Bidder responsible for excess costs incurred thereby, and may take such action, as it deems appropriate, including legal action for Damages or Specific Performance.

Note: Any and all special conditions attached hereto, which may vary from these General Conditions, shall have precedence.

End of General Terms and Conditions

SECTION 3.0- SUBMISSION REQUIREMENTS

3.1 Basic Instructions

All submissions must be uploaded into Bonfire’s Electronic Submissions Portal, with no exceptions. Bonfire accounts are provided at zero costs to the bidder and each bidder must register to access IRCSO’s submission portal.

Upload submissions at:

<https://ircsheriff.bonfirehub.com/portal/?tab=login>

Submissions must be uploaded prior to the proposal due date of Monday, October 16, 2:00 PM est. standard time. Proposals submitted after this time will not be accepted. IRCSO accepts no responsibility for non-receipt and/or delays in receipt caused by transmission and reception problems, equipment failure or any other similar cause.

Each item of requested information shall be instantly sealed and will only be visible after the proposal due date and time. The maximum upload file size is 1 GB. Uploading large documents may take significant time, depending on the size of the file(s) and internet speed of the device be used.

If you need assistance completing a submission, please contact using the following link:

<https://ircsheriff.bonfirehub.com/portal/support>.

In keeping with Florida State construction standards and requirements, this RFP will be a qualifications-based selection which, per statutory requirements, must include cost of services as one of the considering factors. Therefore, submission documents must include a price component in all responses. *All PRICE PROPOSAL RESPONSES must be completed utilizing the Bid Table provided in the submission portal.* Separate pricing proposal attachments will not be considered and deemed non-responsive.

3.2 Documents Deemed Part of Final Contract

The final contract between awarded Bidder and Owner shall include:

The notice, invitation to proposers, general conditions, instructions for proposers, submission requirements, attachments, proposal, addenda (if applicable), and the final executed contract.

3.3 Required RFP Documents

The required RFP documents consists of the following:

DOCUMENT TITLE	UPLOAD FORMAT	# Of Files	Requirement
Technical Proposal	PDF (.pdf)	1 Combined File ONLY	YES
Pricing Proposal	Bonfire Form	N/A	YES
Project Schedule	Bonfire Form	N/A	YES
4.1- Bid Form	PDF (.pdf)	1 File	YES

4.6- Reference Validation Form	PDF (.pdf)	1 File	YES
4.7- Subcontractor List	PDF (.pdf)	1 File	YES
4.9- Warranties	PDF (.pdf)	1 File	YES
4.10- Non-Collusive Affidavit	PDF (.pdf)	1 File	YES
4.11- Disclosure of Relationships	PDF (.pdf)	1 File	YES
4.12- Drug Free Workplace Certification	PDF (.pdf)	1 File	Optional
4.13- Public Entity Crimes Certification	PDF (.pdf)	1 File	YES
4.14- Affidavit of Compliance	PDF (.pdf)	1 File	Optional
4.15- Scrutinized Companies Certification	PDF (.pdf)	1 File	YES
4.16- Lobbying Certification	PDF (.pdf)	1 File	YES
4.17- Debarment Certification	PDF (.pdf)	1 File	YES
4.18- eVerify Certification	PDF (.pdf)	1 File	YES
4.19- Business Licensure	PDF (.pdf)	1 File	YES

3.4 Proposed Project Budget

The approximate budget for this project is:

Construction cost (Target GMP): **\$10,000,000**

GMP costs include: architectural, engineering, and design fees; construction management fees; pre and post construction fees; contingencies; GMP allowances; finishes; etc. Bidders must propose the best and most cost-effective solutions to meet our requirements while ensuring a high level of service.

The awarded bidder must also provide a bid bond of 10% of the total GMP price. Bid Bond must be submitted during prior to scheduled interview.

3.5 Technical Proposal Requirements

All submissions received will become a part of the official contract file and may be subject to disclosure. Submissions **must not exceed twenty-five (25) typed pages**. Attachments A, B, C do not count towards the page limit. Pages must be formatted on 8 ½ X 11 sheets of paper and double-sided documents count as **two** pages. Font must be size 11 or higher. All submissions must include the following information indicated below **AND** in the following order, with individual tabs for each section and sub-section:

3.5.1 Introduction Section

All submissions must include the following information outlined below in the following order and separated by tabs:

1) Cover Letter and Statement of Interest

- Briefly state why the bidding firm or team is interested in this project. This information must include:
 - Experience in working with local governmental projects, and demonstrate an understanding of working procurement guidelines and procedures
- For Design Build Teams comprised of two or more individual firms, applying as a joint-venture for this project, briefly describe work as a partnership and ability to communicate as one company. For joint-venture teams, the construction firm must be the contracting entity that will enter into a contract with the Owner, with the design-build firm and their subconsultants as prime/sub-contractors. Although the

construction firm will be the contracting party, both construction and design firms must be named in the contract. Therefore, joint-venture bidders must provide **two** relevant projects in which each firm (company) listed has successfully worked together in a similar contractual arrangement. For Design-Build Teams that have not completed at least **two** relevant projects together, explain in detail the reasons each company decided to partner for this project and how the collaborative will overcome lack of experience working together.

- For construction firms, explain work experience in managing and/or implementing projects of similar size and scope.
- All proposals must explain capabilities of delivering projects on time, within budget, and with high quality of standards.
- All proposals must explain capabilities/expertise in design creativity and ability to make adjustments as needed based on client needs.

2) Firm Description and Information

- Basic company information
- Company name
- Address and zip code
- E-mail address and name of primary contact
- Telephone number
- Fax number
- Number of years in business
- Form of ownership, including state of residency or incorporation for each member of the Design-Build Team, joint-venture, or other structure. For joint venture teams that have not completed at least two relevant projects together of similar nature as indicated in this RFP, each firm should describe its qualifications separately but hold the unified submittal to the set page limit. Each member of the joint-venture, teams, or other entity structure will be obligated to the payment and performance bond requirements applicable to this Project.
- Succinctly describe the history and growth of each team member's firm(s).

3) Firm Financial Information

- Letter from Financial Institution indicating financial strength of firm or firm(s).
- Financial Statement prepared by the company's CPA or internal accountant.
- Bonding:
 - Identify the Construction Firm's surety or sureties:
 - Surety or sureties must be licensed in the State of Florida, be currently rated "A-" or better by the A.M. Best Company, and must be listed on the U.S. Department of Treasury's Listing of Approved Sureties (Department Circular 750) as a surety authorized to write bonds for the U.S. Government with a total underwriting limitation of the Construction Firm's surety or sureties equal to or greater than the Estimated Construction Value for the project listed in Section 3.4 of this proposal.
 - State the Construction Firm's current per project bonding capability with its surety or sureties: Per Project \$ _____
 - State the unused amount of the line of bonding credit (aggregate) currently available to the Construction Firm.
 - State the name(s), address(es), and telephone number(s) of the Construction Firm's surety agent(s) or underwriting contact(s) for the past five (5) years.
 - State whether performance or payment bond claims have been made to the Construction Firm's surety on any project within the past five (5) years.

- If the response to the preceding statement is affirmative (yes), describe each claim in detail, the name of the project, the Owner, the name of the company or person making each claim, the date of each claim, the circumstances of each claim, and the resolution of each claim.
- State whether any surety has refused to bond the Construction Firm on any project in the past five years.
 - If the response to the statement above is affirmative (yes), state the name of the project and specify the reasons provided for each refusal, the date of each refusal, and the name and address of the surety that refused to bond.

4) Firm Current Legal Status

- Regarding litigation with owners, project managers, sub-contractors, and vendors:
 - List any active or pending litigation within the past five (5) years filed against any the above employees/staff
 - List any active or pending litigation within the past five (5) years filed against any sub-contractor/vendor on behalf of any of the above employees/staff
 - Please disclose any additional litigation(s) that will be revealed during the course of background/reference checks.
 - Has any member of the proposed Design-Build Team ever failed to complete any work awarded to it or has been removed from any project(s) awarded to the firm? Explain

5) Design Build Team / Personnel Capabilities

- Provide general information about the firm's or team's personnel resources, including classifications and numbers of employees, and the locations and staffing of offices.
- Provide an organizational chart of key personnel proposed for this project in the areas of architecture, engineering, construction management, major sub-contractors and other critical components to execute this project.
- Provide summary resumes/qualifications and description of experience of key personnel proposed for this project.

3.5.2 Proposal Section

All submissions must include the information outlined below in the following order and separated by tabs:

1) Understanding Project Scope

- Provide a statement of the Design-Build Teams understanding of the project type and requirements. Submit a list of services to be provided by the firm or team that will address the completion of projects. At a minimum, the following information must be included:
 - Specific design phase approach to this project
 - Specific approach to permitting, surveys and testing, and recommended adjustments to project schedule as needed (should explain contingency plans if proposed schedule is altered)
 - Specific pre-construction phase approach to this project
 - Specific details to explain timeframe in Project Schedule that is submitted in Bonfire
 - Specific cost management approach to developing, verifying, modifying, and submitting costs in a phased approach, to ensure the completed project will be within cost constraints and meeting design expectations.
 - Specific approach to developing, verifying, and managing potential and/or required long-lead items necessary for the project.

- Specific quality management approach to verifying and assuring materials are selected, procured, and installed with acceptable construction industry standards.

2) Additional Services Required

- Based on the Design-Build Teams understanding of the project, identify any additional services that might be required in order to complete the project, that has not been previously covered elsewhere in the respondent's submittal package. Describe what you have identified that needs to be address, and the Design-Build Teams recommendation for ensuring those needs are properly addressed in the project scope.

3) Technological Capabilities

- Describe the Design-Team's in-house capabilities in the following areas:
 - Internet based collaboration tools for design and construction (name and version of software used).
 - Electronic transmittal of drawings, documents, and general construction communication. This should include software for contract and document management, document file transfer protocol and/or repository, etc. (name and version of software used- e.g. Newforma).
 - Regular business software, such as: spreadsheets, word processing, presentation, and communications.
 - Project construction budgeting/ cost estimating/ reporting in electronic format (name and version of software used).

4) Current Project Assignments

- Identify current projects assignments for the current completion date(s) for projects being managed by the proposed key personnel that will be assigned to this project. If projects will run in conjunction with this project, indicate the availability (as a percentage) of time that will be dedicated to this project for each key person.

5) Statement of Why the Proposing Design-Build Team Should be Selected

This section provides each firm or team the opportunity to provide specific information that differentiates them from other offerors. **This differentiation MUST be something stated that has not been previously stated in the remainder of the RFP.** This statement is limited to one page and must not contain photos, charts, graphs, or sales documentation of any kind.

3.5.3 Pricing Section (to be submitted in Bonfire)

It is the intent of the Owner to utilize a Construction Management/Design Build contract for the Cost of Work, plus a Fixed Fee with a Guaranteed Maximum Price (GMP).

- Pre-Construction Phase Compensation:
 - Owner shall pay construction manager "pre-construction compensation" consisting of the reimbursable expenses Design-Build Team incurs in performance of all pre-construction phase services, plus the pre-construction phase fee.
 - The pre-construction phase compensation shall be deemed to include, without limitation, items such as: overhead, profit and all direct expenses related to the project.
- Construction Phase Compensation:
 - For construction manager's, performance of the Work and all Construction Phase Services must be in strict conformance with the Contract Documents, and subject to the GMP.
 - Owner shall pay Construction Manager "Construction Phase Compensation" consisting of: Subcontractors costs, plus reimbursables expenses incurred in performance of Construction

Phase Services.

The following criteria must be represented as a dollar amount AND must be submitted in Bonfire only. This information should not appear as a tab or an appendix in the technical proposal. Pricing in the Bid Tabulation form must include:

- **Design & Contract Administration Fees-** total dollar amount must include fees for Architectural and Engineering Services.
- **Property Assessment & Evaluation Fees-** total dollar amount must include all anticipated fees associated with property assessment determined at site visit (to be determined by Design-Build Team on what is required).
- **CM Pre-Construction Fee**
- **Total Fees**
- **CM Construction Fee %**

*****Important Note: The Design-Builder is only requested to provide documentation on the fees listed above, at the time of RFP submission. A Final GMP Budget must be requested and approved after the assessments and designs have been completed.*****

Indian River County Sheriff's Office will execute contract agreement with the Pre-Construction/Design Fees alone.

End of Submission Requirements

SECTION 4.0- ATTACHMENTS

TECHNICAL PROPOSAL ATTACHMENTS	
ATTACHMENT #	ATTACHMENT TITLE
4.0	Technical Proposal- (upload as a single PDF file in Bonfire)
REFERENCE ATTACHMENTS	
4.2	General Scope of Work
4.3	Specific Scope of Work
ATTACHMENTS TO UPLOAD IN BONFIRE	
4.1	Bid Form
4.6	Reference Validation Forms
4.7	Subcontractor List
4.9	Warranties
4.10	Non-collusive Affidavit
4.11	Disclosure of Relationship
4.12	Drug-Free Workplace Certification
4.13	Public Entity Crimes Certification
4.14	Affidavit of Compliance
4.15	Scrutinized Companies
4.16	Lobbying Certification
4.17	Debarment Certification
4.18	E- Verify Certification
4.19	Licensing

SECTION 4- BID DATA SHEETS

4.1 BID PROPOSAL FORM



INDIAN RIVER COUNTY SHERIFF'S OFFICE
4055 41ST AVENUE
VERO BEACH, FL 32960

DESIGN BUILD FIRM/TEAM ("BIDDER")					
Name					
Address					
Address					
City		State		Zip	
PROJECT IDENTIFICATION					
Bid/RFP #	2023-02				
Project Title	Design Build: Administrative Service Complex				
PROJECT DESCRIPTION					
<p>The Indian River County Sheriff's Office is soliciting proposals from qualified and licensed firms to provide Construction Management-at-Risk (CMR) services, Architectural Design Services, and engineering services in connection with the solicitation <i>Design Build: Administrative Service Complex</i> (the "Project"). The Project, upon completion, will be the development of an appropriate 27,000 sq foot building.</p>					
RESPONSIVE BIDDER					
<p>The apparent best value bidder on a contract valued at more than \$250,000 for the construction, alteration, decoration, painting or improvement of a new or existing building or structure shall submit a list of all subcontractors who will perform more than \$25,000 of work on the project including labor and materials. Insurance is also required for all construction projects valued at more the \$250,000. Additional required documents provided in remainder of Bid Package (Section 4- Bid Data Sheets).</p>					
<p>Special Instructions: The bid/proposal process is highly controlled. To protect the integrity of the process, any questions or clarification regarding this Request for Bid/Proposal must be handled by the Procurement Unit.</p>					
BASE BID INFORMATION					
<p>The undersigned, hereinafter call the Bidder, being familiar with and understanding the Bidding documents and also having examined project site and being familiar with all local conditions affecting the Project, hereby proposes to furnish all labor, material, equipment, supplies, and transportation, and to perform all Work in accordance with the Bidding Documents within the timeline set forth therein, for the sum of:</p>					
BASE BID	_____				
	Written Amount				
BASE BID (Numerical)	_____				
	(Amount to be shown in both words and numbers, in the event of a difference between the written amount and the numerical amount, the written amount shall prevail)				

This is information must be completed by the primary construction firm for this Project.
Bids must be received prior to posted deadlines, no exceptions.

SECTION 4- BID DATA SHEETS

4.1.1- BID SUBMITTAL CERTIFICATION

Bidding Acknowledgements:

In order to be considered for this project, **the Bidder must** have successfully completed a minimum of three (3) projects of similar scope and complexity over the past five (5) years, in the State of Florida, and must be able to document the required experience upon request.

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract with Owner to perform all Work as specified or indicated in the Bid Data Sheets documents for the Contract Price and within the Contract Period indicated in this Bid.
- 2.01 Bidder accepts all of the terms and conditions of the "Advertisement of Invitation to Bid" and the "Instructions to Bidders", including without limitation those dealing with the disposition of Bid Security (if applicable). The Bid will remain subject to acceptance for 21 days after the Bid opening, or for such longer period of time that Bidder may agree in writing upon request of OWNER.
- 3.01 Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over OWNER.
- 4.01 In submitting this Bid, Bidder represents, as more fully set forth in the Contract, that
 - a) Bidder has examined the Bid Documents, including the following addenda, receipt of which is hereby acknowledged:

NUMBER	DATE	NUMBER	DATE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Name of Applicant:

Title of Applicant:

Signature of Applicant:

Date:

ATTACHMENT 4.2- GENERAL SCOPE OF WORK

PART 1- DESIGN BUILD: CONSTRUCTION GENERAL RESPONSIBILITIES

1. Scope of Services include, but is not limited to:
 - a. Site analysis and Mobilization Plan
 - b. Management and execution of a Safety Plan
 - c. Prepare project schedule and monthly updates
 - d. Provide necessary Insurance including Errors & Omissions for Design
 - e. Provide 100% Performance and Payment Bonds prior to Construction
 - f. Suggest value engineering alternatives and incorporate same into documents once approved
 - g. Management and execution of Design Phase
 - h. Management and execution of all required permits
 - i. Management and execution of the Procurement Phase
 - j. Management and execution of all Construction Phase activities
 - k. Management and execution of the Post Construction Phase
 - l. Execute fully the requirements and intent of the RFP
2. The Design-Builder (DB) will be required to assume an active role in the control of time and cost of the project. The DB shall develop a Project critical path method (CPM) schedule reflecting all phases of the project including preliminary design, design, procurement, construction, and project closeout to the satisfaction of Indian River County Sheriff's Office. The schedule shall reflect agreed upon milestones for evaluation of progress and show relationships between tasks, activities, shutdowns and inspection/approvals by responsibility, design discipline, construction trades and phase of the program. Preparation and adherence to the Project Schedule shall be a contractual responsibility of the Design/Builder. In addition to the DB's work, the schedule should include the timing and coordination of owner supplied / owner installed items (if any). The DB shall remain fully responsible for designing and constructing the project within the established budget and time constraints.
3. The DB is working within an operating building and therefore shall develop, manage, and execute a safety program for all phases of the work with periodic reporting to Indian River County Sheriff's Office through its Representative. Refer to the Project specific scope descriptions for more details.
4. The DB shall make monthly reports to Indian River County Sheriff's Office's Representative indicating the status of all activities and depicting their impact on the schedule, budget and function of the project and impact on current operations of the affected facility.
5. For the duration of the DB's contract, Indian River County Sheriff's Office will work to identify an on-site office for their assigned CM Project Team.

ATTACHMENT 4.2- GENERAL SCOPE OF WORK

PART 2- DESIGN BUILD: PRELIMINARY DESIGN RESPONSIBILITIES

1. Property Assessment & Evaluation- The Design Builder and their team will work with Indian River County Sheriff's Office to identify specific properties that meet the minimum requirements established in the previous Tasks. site will have an analysis conducted and at a minimum include the following elements:
 - a. 1. Existing Facilities
 - b. 2. Building Program/Site Diagram fit analysis
 - c. 3. Zoning, design guidelines, and deed restrictions and requirements
 - d. 4. Traffic (bus, automobile, and pedestrian) considerations
 - e. 5. Utilities and their availability (a potentially high-cost item)
 - f. 6. Topography/Natural Site Features
 - g. 7. Built features.
 - h. 8. Vegetation and wildlife
 - i. 9. Estimated total costs to purchase and develop property.

PART 3- DESIGN BUILD: PRELIMINARY DESIGN RESPONSIBILITIES

1. Master Planning Phase Services- Indian River County Sheriff's Office Requirements: Upon written authorization from IRCSSO to proceed, the Design Build Team will work with key IRCSSO personnel to develop a comprehensive Master Plan for the project.
2. Master Plan Estimate: The Design Build Team will develop an overall cost estimate to construct and execute approved Master Planned Facility and other related improvements. The estimate will be utilized to identify the proposed priority and phasing of the project and be allocated to available funding.

PART 4- DESIGN BUILD: CONCEPTUAL DESIGN PHASE

1. Review scope and type of work identified in Owner's Master Plan, and perform due diligence of existing site.
2. Develop conceptual designs for all components of the project and work with Indian River County Sheriff's Office to achieve buy in and approval.
3. Review Indian River County Sheriff's Office budget and determine its basis (e.g. cost estimate, available funds, etc.) and update the estimate of costs for each component of the project.

ATTACHMENT 4.2- GENERAL SCOPE OF WORK

PART 5- DESIGN BUILD: DESIGN RESPONSIBILITIES

1. The DB will be responsible for making all applications for building and other development permits if found to be necessary. This includes the preparation of applications, drawings, exhibits, surveys, design computation summaries, and other documents needed to file for and obtain all necessary permits and to satisfy the Owner and Jurisdiction that the intent of any RFP is being met. Responsibilities shall include, but not be limited to:
 - a. Conduct Facility & Campus Site Assessments in order to receive approval for the construction phase.
 - b. Prepare construction documents in accordance with normal AIA Standards.
 - c. Submit drawings for review and approval by the proper local and/or state agencies and Indian River County Sheriff's Office's personnel, and make changes as required to obtain approval.
 - d. Coordinate all aspects of the design.
 - e. Update the program & project's schedules at least monthly
 - f. Prepare and submit all documents necessary to obtain all required permits. All permit and other fees shall be assessed against the project total.
 - g. Conduct, record and distribute meeting minutes of design progress meetings with Indian River County Sheriff's Office's Staff.
 - h. As necessary, prepare and submit a detailed Preliminary Design Estimate, (DD, SD), and Construction Documents Estimate of the construction cost for the Project based upon approved plans.
2. It shall be the DB's responsibility to produce a design in accordance with Indian River County Sheriff's Office's requirements, applicable codes, rules, regulations, and sound design practice that is functional, buildable, and maintainable to the complete satisfaction of Indian River County Sheriff's Office, for a total cost (including all phases) within the allocated project budget.

PART 6- DESIGN BUILD: CONSTRUCTION RESPONSIBILITIES

1. Construction for the projects will commence with the issuance of a Notice-to-Proceed in writing by Indian River County Sheriff's Office's Representative and will terminate when the final payment is made by Indian River County Sheriff's Office's Representative to the DB. Substantial Completion will occur when the project is ready for its intended use in accordance with the approved plans and specifications AND the local Authority Having Jurisdiction over the project authorizes and issues a Certificate of Occupancy.
2. Scope of Services during the Construction Phase includes, but is not limited to:
 - a. Construction of the project.
 - b. Construction management and administration of the project.

ATTACHMENT 4.2- GENERAL SCOPE OF WORK

- c. Provide Construction Update Reports as requested for Indian River County Sheriff's Office Monthly Command Staff Meetings.
- d. Provide Quality Control Inspections by the DB with monthly reports issued to Indian River County Sheriff's Office's Representative by the DB's design professionals during construction.
- e. Provide Project/Field engineering.
- f. Provide Construction supervision.
- g. Host meetings with Indian River County Sheriff's Office's Staff; record and distribute minutes. It is the desire of Indian River County Sheriff's Office to have bi-monthly meetings (or at the discretion of IRC SO).
- h. DB will coordinate with the Indian River County Sheriff's Office Representative to ensure required staff and others are scheduled.
- i. Schedule updates at least monthly.
- j. Coordinate/schedule Material Testing / Special Inspections as required by the specifications and direct provided by Indian River County Sheriff's Office Material Testing/Special Inspections firm.
- k. Obtain and pay for all required inspections and permits (if necessary).
- l. Minimize disruption to Indian River County Sheriff's Office operations by developing and implementing a Construction Sequencing that works around these operations with little or no interference.
- m. Pay for all goods and services and provide releases to Indian River County Sheriff's Office's Representative as required.
- n. Provide all information to assist Indian River County Sheriff's Office Representatives with Completion Reports.

PART 7- DESIGN BUILD: POST CONSTRUCTION RESPONSIBILITIES

1. Items on the punch list must be completed and Final Completion must be achieved within thirty (30) days of Substantial Completion or as provided for on the approved Project Schedule. Also, within one (1) month of substantial completion, the DB shall provide three (3) copies of a final report. This report is to include:
 - a. Copies of all meeting minutes
 - b. Copies of all permits
 - c. Correspondence with regulatory agencies, if any
 - d. Warranties and guarantees
 - e. Electronic Operation and maintenance Manuals on contained on (2) each external hard drives
 - f. Statement certifying Project Completion
 - g. Final Summary of all costs
 - h. Complete all requirements of the RFP
 - i. Warranty Inspections
 - j. Conduct Warranty Review/Facility Inspection one month prior to the end of the general warranty period with Indian River County Sheriff's Office and facility staff to identify and resolve outstanding warranty issues prior to the end of the warranty period.

ATTACHMENT 4.3- SPECIFIC SCOPE OF WORK

The construction of the 27,000 sq foot Administrative Service Complex for the Indian River County Sheriff's Office will include office spaces for the Information Technology Unit, Finance Division, Human Resources Unit, Professional Standards Unit, and the Internal Affairs Section. Each department has specific needs that must be met in the overall design. See image 1.1 for theorized layout.

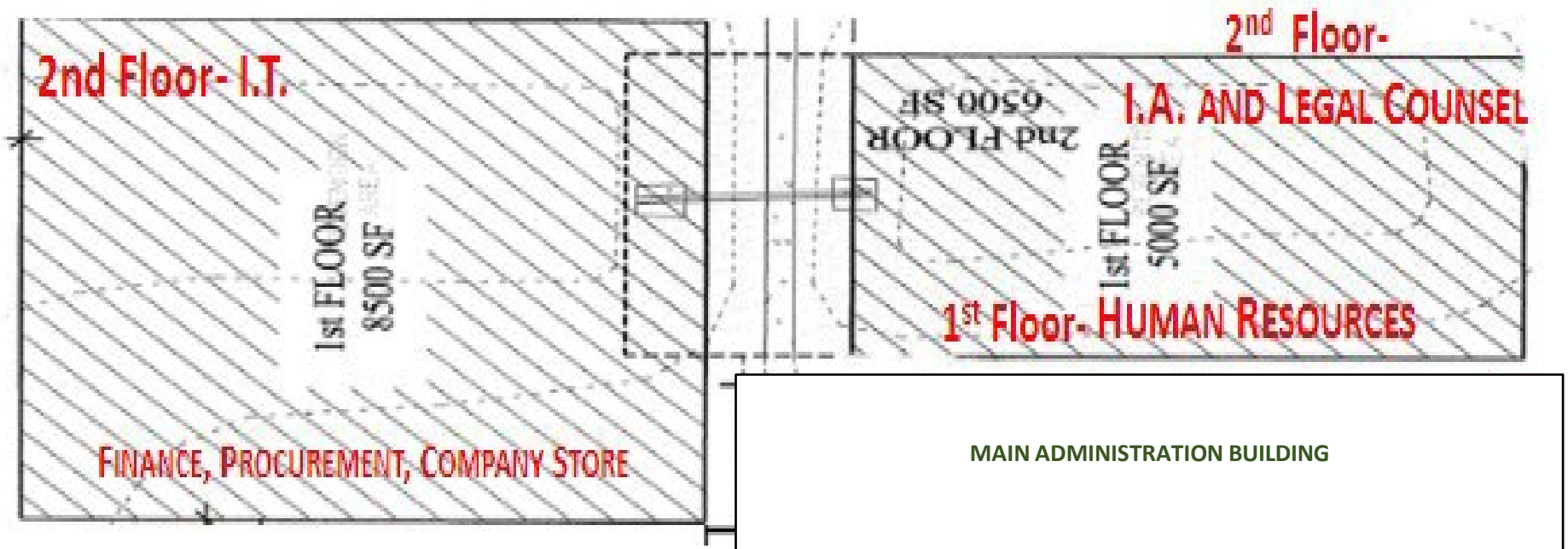


Image 1.1- Depiction not to Scale

ATTACHMENT 4.3- SPECIFIC SCOPE OF WORK

At minimum, the facility must include:

- Dedicated space for the Information Technology Unit, with the desired project outcomes to provide- reinforced mechanical/server room, independent thermostat controls, reinforced raised floor, 15 offices, 2 bathrooms, conference/training room, dedicated storage, and a kitchen. See image 2.1 for theorized layout.

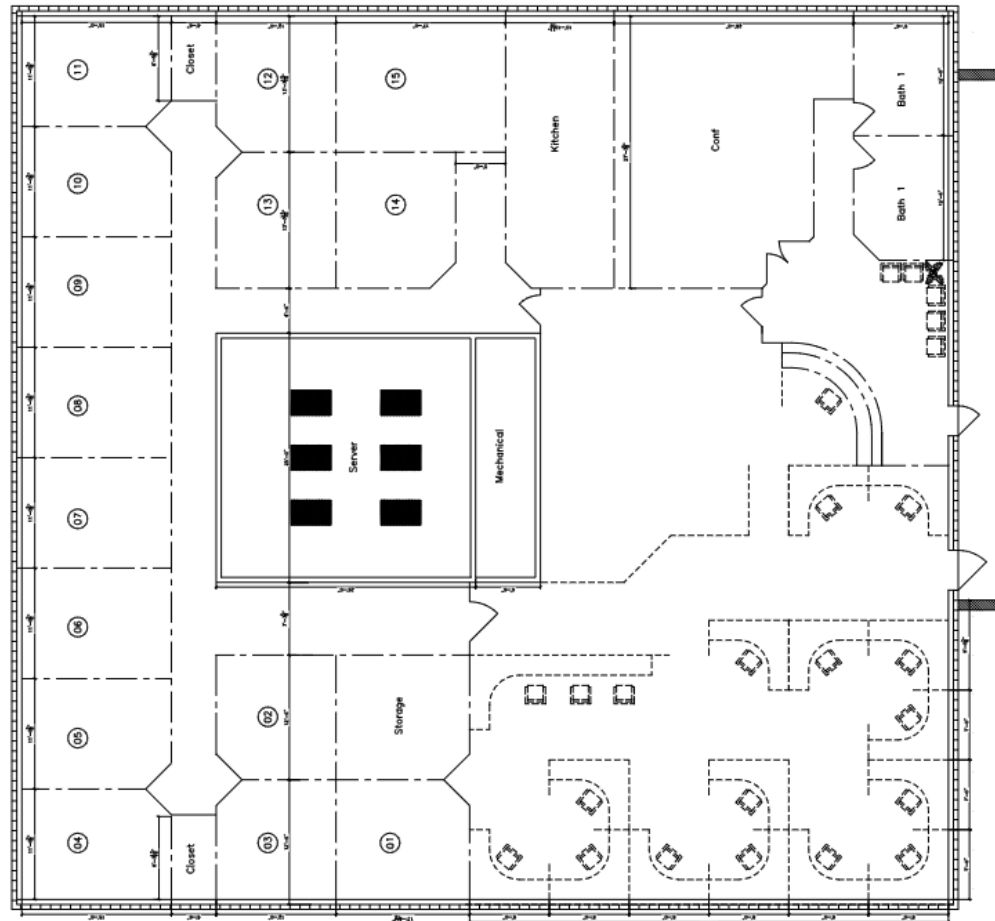
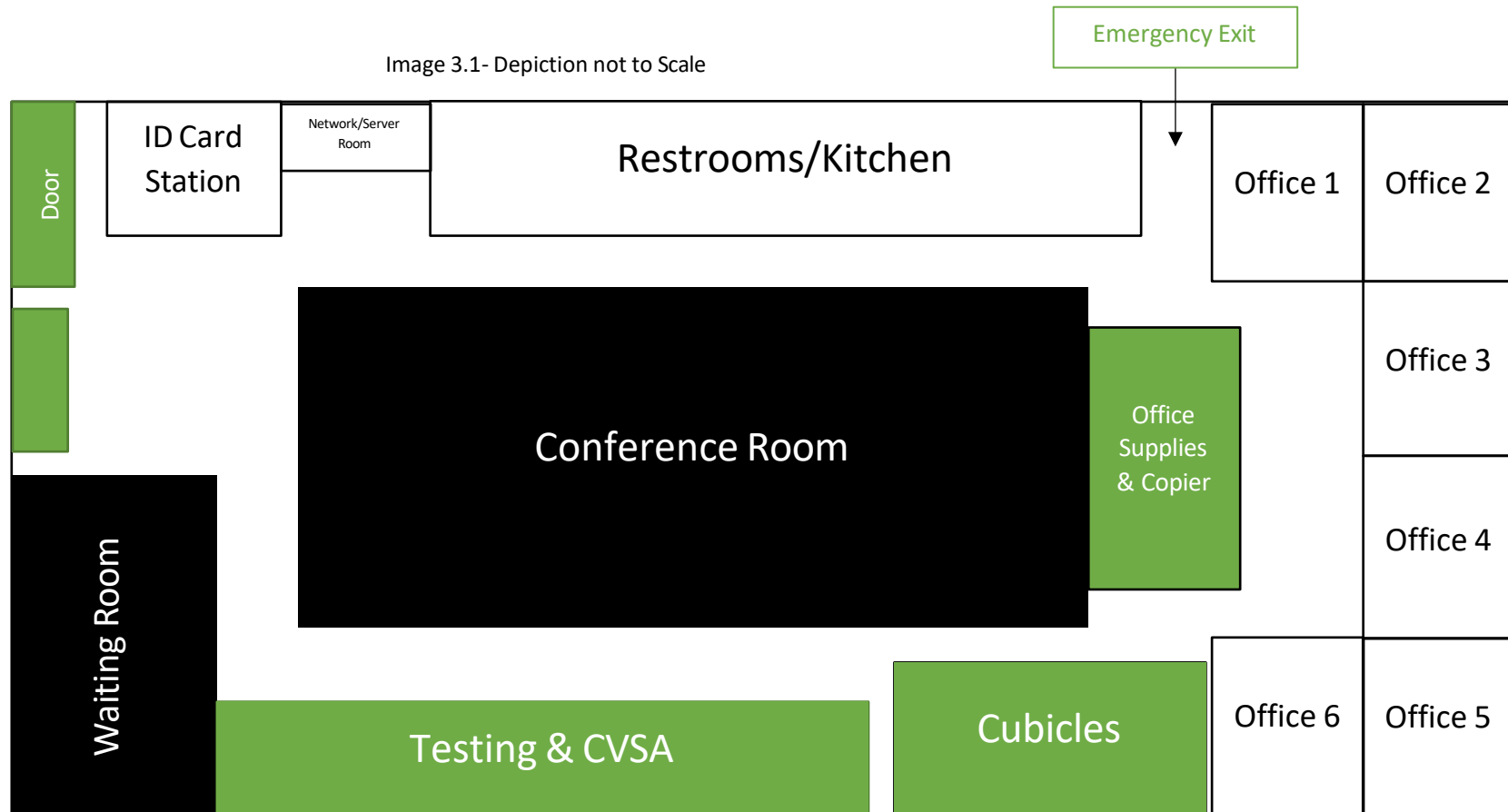


Image 2.1- Depiction not to Scale

ATTACHMENT 4.3- SPECIFIC SCOPE OF WORK

- Dedicated space for the Human Resources Unit, with the desired project outcome to provide- 10 offices, a conference room, waiting/staging area, interview/pre-employment testing area, kitchen, and two bathrooms. See Image 3.1 for theorized layout.



ATTACHMENT 4.3- SPECIFIC SCOPE OF WORK

Dedicated space for the Finance Division, with the desired project outcomes to provide- 14 offices, large store front for the Company Store with reinforced glass curtain wall at main entrance, 2 storage areas, kitchen, conference room, 3 bathrooms. See image 4.1 for theorized layout.

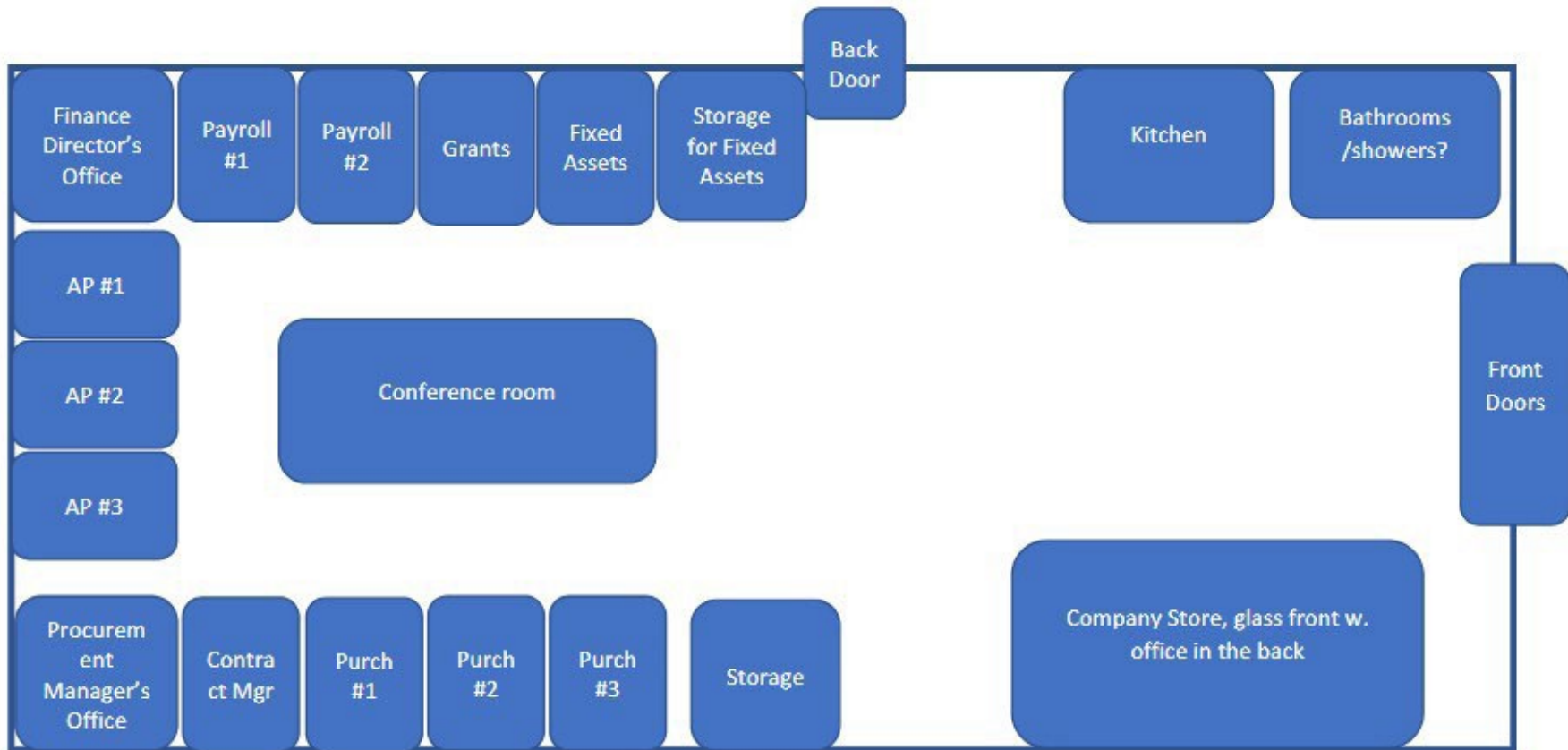


Image 4.1- Depiction not to Scale

ATTACHMENT 4.3- SPECIFIC SCOPE OF WORK

- Dedicated space for the Professional Standards Unit and I.A. Section, with the desired project outcome to provide 12 offices, attorney/client room, dedicated interview room, a conference room, 2 bathrooms, and a kitchen. See image 5.1 for theorized layout.

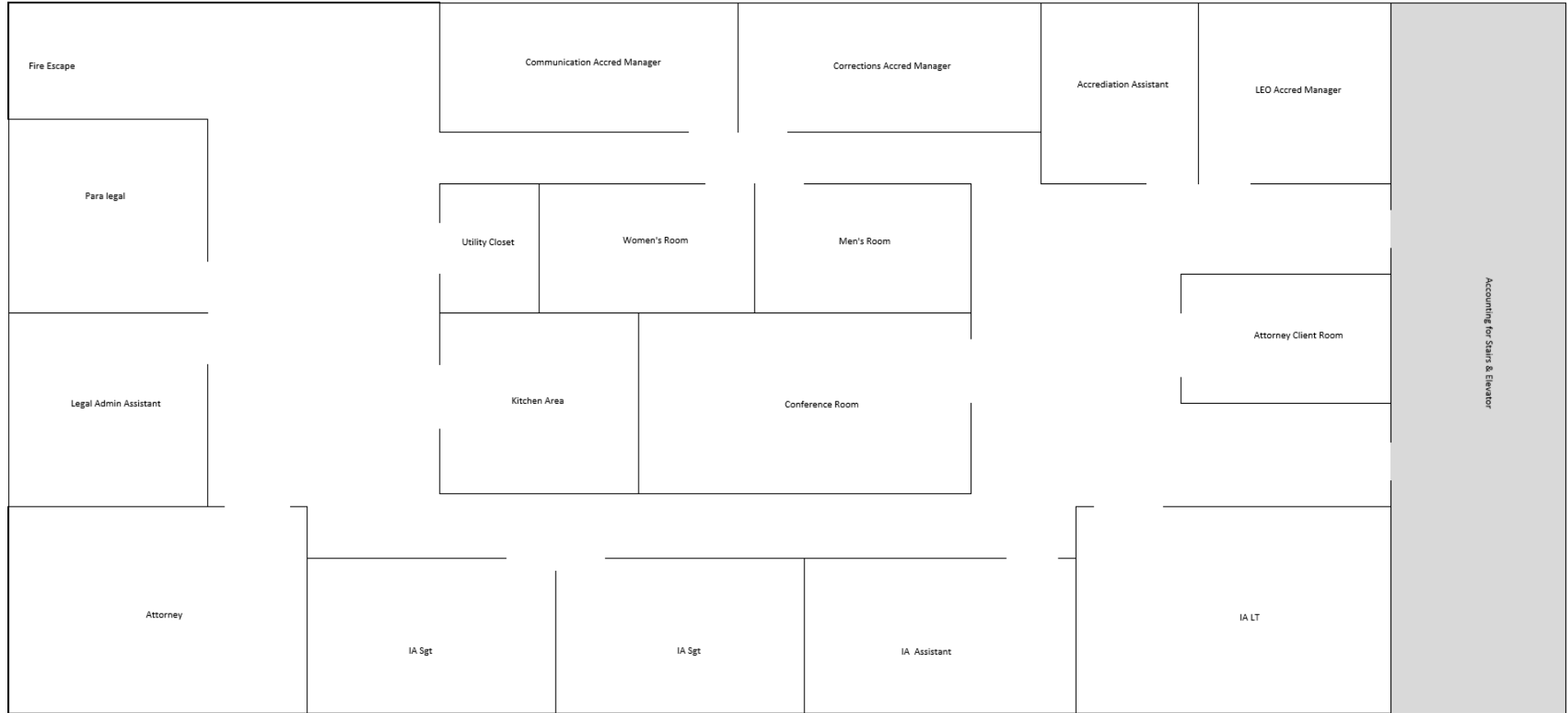


Image 5.1- Depiction not to Scale

SECTION 4- BID DATA SHEETS

4.6: REFERENCE VERIFICATION FORM

Project No & Name: _____ Bidder's Firm Name: _____

BIDDERS PROVIDE THE FOLLOWING COMPANY INFORMATION FOR THREE (3) DIFFERENT FIRMS

Company Name:		Reference Contact:	
Telephone Number:		Email Address:	

Please complete the following questionnaire below regarding services provided by the above listed firm and email to the Indian River County Sheriff's Office Procurement Unit at requisitionrequest@ircsheriff.org within 48 hours of receipt.

No.	Questions	Rating	Comments
1	Was the Project completed within the promised time frame? If not, why?		
2	Were change orders requested, what type, and were they granted, refused, and why?		
3	Did the contractor provide on-site supervision, and how much supervision was provided on a daily basis?		
4	Did the contractor provide enough labor to maintain the schedule?		
5	Did the contractor move his labor to other jobs and not work on your site during the course of the work?		
6	What types of problems did you encounter, and how were they handled by the contractor?		
7	Did they communicate well with staff?		
8	Were pay requests timely, accurate, easy to read, and contain all required backup information?		
9	Was the punchlist, and work required for substantial and full completion done efficiently? Were there any responsibility issues?		
10	Would you consider using this firm again?		
11	Any other comments you would like to make about the Firm?		
Rating: 1= Poor 2= Fair 3= Average 4= Good 5= Excellent			Rating Total

For internal use only (Staff Reviewer Name and Title) _____

SECTION 4- BID DATA SHEETS

4.7: SUBCONTRACTOR LIST

The undersigned Bidder hereby designates, as follows, all major subcontractors whom the CMR proposes to utilize for the major areas of work for the project. The Bidder is further notified that all subcontractors shall be properly licensed, bondable and shall be required to furnish the Owner with a certificate of insurance in accordance with Section VI, Special Conditions, Insurance Requirements. Failure to furnish this information shall be grounds for rejection of the Bidder's submittal.

Subcontractor Name	Address	Phone #	License #
Project Specialty-Duties		Work % of Contract	
Subcontractor Name	Address	Phone #	License #
Project Specialty-Duties		Work % of Contract	
Subcontractor Name	Address	Phone #	License #
Project Specialty-Duties		Work % of Contract	
Subcontractor Name	Address	Phone #	License #
Project Specialty-Duties		Work % of Contract	
Subcontractor Name	Address	Phone #	License #
Project Specialty-Duties		Work % of Contract	
Subcontractor Name	Address	Phone #	License #
Project Specialty-Duties		Work % of Contract	
Subcontractor Name	Address	Phone #	License #
Project Specialty-Duties		Work % of Contract	

SECTION 4- BID DATA SHEETS

4.9 : WARRANTIES

In consideration of, and to induce the Award of THE INDIAN RIVER COUNTY SHERIFF'S OFFICE, Construction Contract described in these Bid Documents, the Contractor represents and warrants:

1. The Contractor is financially solvent and sufficiently experienced and competent to perform all of the work required of the Contractor in the Construction Contract; and
2. That the facts stated in the Contractor's Bid and information given the Contractor pursuant to the request or proposal for Bids, instructions to Contractors and Specifications are true and correct in all respects; and
3. That the Contractor has read and complied with all of the requirements set forth in the request for Bids, instructions to Contractors and Specifications; and
4. That the Contractor warrants all materials supplied by it under the terms of the Construction Contract are delivered to the INDIAN RIVER COUNTY SHERIFF'S OFFICE, free from any security interest, and other lien, and that the Contractor is a lawful owner having the right to sell the same and will defend the conveyance to any prevailing legal jurisdiction, against all persons claiming the whole or any part thereof; and
5. That the materials supplied to the INDIAN RIVER COUNTY SHERIFF'S OFFICE, under the Construction Contract are free from the rightful claims of any persons whomsoever, by way of patent or trademark infringement or the like; and
6. That the materials supplied under the Construction Contract are merchantable within the meaning of the Uniform Commercial Code Section 2-314; and
7. That the materials supplied under the Construction Contract are free from defects in materials and workmanship under normal use and service and that any such materials found to be defective shall be replaced by the Contractor as per the attached Warranty.
8. That the materials supplied pursuant to the Construction Contract are fit for the purposes for which they are intended to be used; that under normal use and maintenance the material will continue to be fit for such purposes for the warranty period after delivery, provided that the Sheriff's Office shall give the Contractor notice that the materials failed to fulfill the warranty; such notice shall state in what respect the materials have failed to fulfill the warranty, where upon the Contractor shall be allowed a reasonable time after receipt of such notice to correct the defect and the Sheriff's Office agrees to cooperate in this regard. If the materials cannot be made to fulfill the Contract within the warranty period the Contractor will either furnish duplicate materials, or at its option refund the amount paid, which shall constitute a settlement in full for all damages occasioned by reason at this warranty of fitness; and
9. That this Warranty is included in exposures for which the Contractor has products liability and completed operations insurance, in minimum amounts of One Hundred Thousand (\$100,000.00) Dollars for property damage and One Hundred Thousand (\$100,000.00) Dollars for personal injury as shown on the Certificates of such Insurance attached hereto, and the Contractor agrees to keep such insurance coverage during the period of this Warranty; and

10. That it is an express condition of this Warranty that the item(s) hereby warranted shall be operated and maintained by INDIAN RIVER COUNTY SHERIFF'S OFFICE in accordance with the manufacturer's recommendations as to those portions of the item(s) that are not fabricated by the Contractor, and in accordance with the Contractor's recommendations, a copy of which has either been supplied to the Sheriff's Office should maintain complete and accurate records made at the time of performance of maintenance showing compliance with such instructions, and by acceptance of this Warranty, the INDIAN RIVER COUNTY SHERIFF'S OFFICE, agrees to present such records to the Contractor upon request in the event of a claim hereunder by the Sheriff's Office; and

11. The foregoing Warranties apply as a minimum and are supplemental to other Warranties offered. They are not substituted, but in addition to, any other Warranties offered. The Contractor acknowledges and agrees to Warranty the craftsmanship of the Work performed under this Warranty for a minimum period of six (6) months should any should any service or installation defects arise within this timeframe; and

12. That it is agreed and understood by the Contractor that INDIAN RIVER COUNTY SHERIFF'S OFFICE, is induced to enter the Construction Contract in reliance upon this Warranty.

_____	_____
Name of Applicant:	Title of Applicant:
_____	_____
Signature of Applicant:	Date:

The foregoing instrument was acknowledged before me this _____ day of _____ 20 _____

by _____
 who is personally know to me or who has presented the following type of identification:
Identification Type: _____

Name of Notary Public (print your name)

Signature of Notary Public, State of Florida

SEAL

My Commission Expires: _____

SECTION 4- BID DATA SHEETS

4.10 : NON-COLLUSIVE AFFIDAVIT

STATE OF FLORIDA
COUNTY OF

being first duly sworn, deposes and says that:

BIDDER is the,

(Owner, Partner, Officer, Authorized Representative or Agent with Contract Executing Authority)

BIDDER is fully informed respecting the preparation and contents of the attached BID and of all pertinent circumstances respecting such BID;

Such BID is genuine and is not a collusive or sham BID;

Neither the said BIDDER nor any of its officers, partners, owners, agents, representative, employees or parties in interest, including this affidavit, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other BIDDER, firm or person to submit a collusive or sham BID in connection with the Contract for which the attached BID has been submitted; or to refrain from bidding in connection with such Contract; or have in any manner, directly or indirectly, sought by agreement or collusion, or communications, or conference with any BIDDER, firm, or person to fix the price or prices in the attached BID or any other BIDDER, or to fix any overhead, profit, or cost element of the BID Price or the BID Price of any other BIDDER, or to secure through any collusion conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Contract;

The price of items quoted in the attached BID are fair and proper and are not tainted by collusion, conspiracy, connivance, or unlawful agreement on the part of the BIDDER or any other of its agents, representatives, owners, employees or parties in interest, including this affidavit.

The foregoing instrument was acknowledged before me this

_____ day of _____ 20 _____

by _____

who is personally know to me or who has presented the following type of identification:

Identification Type: _____

Name of Notary Public (print your name)

Signature of Notary Public, State of Florida

SEAL

My Commission Expires: _____

SECTION 4- BID DATA SHEETS

**4.11 : STATEMENT UNDER SECTION 105.08,
INDIAN RIVER COUNTY CODE, ON DISCLOSURE OF RELATIONSHIPS**

This statement MUST be submitted with your bid and must be executed by the CEO or authorized personnel to with privileges to enter into contracts.

BID/RFP #: 2023-02
PROJECT TITLE: Design Build: Administrative Service Complex

This statement is submitted by:

Entity:	
Business Address:	
Federal ID # (FEIN):	

My name is, _____, and my relationship to the entity named above is _____.

- 1) I understand that an "affiliate" as defined in Section 105.08, Indian River County Code, means:
The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of the entity.
- 2) I understand that the relationship with a Sheriff's Office or County employee that must be disclosed as follows: parent, grandparent, child, grandchild, aunt, uncle, first cousin, niece, nephew, husband, wife, in-laws (mother, father, sister, brother, daughter, son), marital relationship (stepdaughter, stepson, stepbrother, stepsister), half-brother, half-sister.
- 3) Based on information and belief, the statement which I have marked below, is true in relation to the entity submitting this sworn statement. [Please indicate which statement applies]
 - Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are acting in management of entity have any relationships as defined in section 105.08, Indian River County Code, with any Sheriff's Office or County employee.
 - The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents, who are active in management of the entity have the following relationships with a Sheriff's Office or County employee:

Name of Affiliate or Entity	Name of Sheriff's Office or County Employee	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____

Signature of Applicant: _____

Date: _____

SECTION 4- BID DATA SHEETS

4.12 DRUG FREE WORKPLACE CERTIFICATION

This form MUST be submitted with your bid.

INDIAN RIVER COUNTY SHERIFF'S OFFICE

BID/RFP #:	<u>2023-02</u>
PROJECT TITLE:	<u>Design Build: Administrative Service Complex</u>

IDENTICAL TIE RFPS: Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quantity, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, an ITB received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie ITBs will be followed if none of the tied vendors have a drug-free workplace program (Florida Statutes Section 287.087). In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, and available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under ITB a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under ITB, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm:

- complies fully with the above requirements.
- does **not** wish to certify as a Drug-Free Workplace.

Name of Respondent:

Title of Respondent:

Signature of Respondent:

Date:

SECTION 4- BID DATA SHEETS

4.13 : SWORN STATEMENT OF PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with any agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
2. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of the public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
3. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means: a. A predecessor or successor of a person convicted of a public entity crime; or b. An entity under the control of any person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
4. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
5. Based on information and belief, the statement that I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies.)

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

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

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

Name of Applicant: Title of Applicant:

Signature of Applicant: Date:

The foregoing instrument was acknowledged before me this _____ day of _____ 20 _____

by _____
 who is personally know to me or who has presented the following type of identification:
Identification Type: _____

Name of Notary Public (print your name)

Signature of Notary Public, State of Florida

SEAL

My Commission Expires: _____

SECTION 4- BID DATA SHEETS

4.14 AFFIDAVIT OF COMPLIANCE

Please include this form with your bid. Failure to include will be interpreted as indication you take no exceptions.

INDIAN RIVER COUNTY SHERIFF'S OFFICE

BID/RFP #: 2023-02

PROJECT TITLE: Design Build: Administrative Service Complex

- We DO NOT take exception to the Bid/Specifications.
- We TAKE exception to the BID/Specifications as follows:

Company Name: _____

Company Address: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____

NAME (TYPE/PRINTED)

AUTHORIZED SIGNATURE

TITLE

DATE

SECTION 4- BID DATA SHEETS

4.15 CERTIFICATION REGARDING PROHIBITION AGAINST CONTRACTING WITH SCRUTINIZED COMPANIES

This form **MUST** be submitted with your bid.

INDIAN RIVER COUNTY SHERIFF'S OFFICE

BID/RFP #: 2023-02

PROJECT TITLE: Design Build: Administrative Service Complex

I hereby certify that neither the undersigned entity, nor any of its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit have been placed on the Scrutinized Companies that Boycott Israel List created pursuant to s. 215.4725 of the Florida Statutes, or are engaged in a boycott of Israel.

In addition, if this solicitation is for a contract for goods or services of one million dollars or more, I hereby certify that neither the undersigned entity, nor any of its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit have been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created to pursuant to s. 215.473 of the Florida Statutes, or are engaged in business operations in Cuba or Syria as defined in said statute.

I understand and agree that the Indian River County Sheriff's Office may terminate any contract resulting from this solicitation upon written notice if the undersigned entity (or any of those related entities of respondent as defined above by Florida law) are found to have submitted a false certification or any of the following occur with respect to the company or a related entity:

- i. It has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel;
- ii. For any contract for goods or services of one million dollars or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria.

Entity:	
Business Address:	
Federal ID # (FEIN):	

Name of Respondent:

Title of Respondent:

Signature of Respondent:

Date:

SECTION 4- BID DATA SHEETS

4.16 CERTIFICATION REGARDING LOBBYING

Certification required for Contracts, Grants, Loans, and Cooperative Agreements. This form MUST be submitted with each bid or offer exceeding \$100,000.

INDIAN RIVER COUNTY SHERIFF'S OFFICE

BID/RFP #: 2023-02

PROJECT TITLE: Design Build: Administrative Service Complex

The undersigned certifies, to the best of his or her knowledge, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name of Applicant:

Title of Applicant:

Signature of Applicant:

Date:

SECTION 4- BID DATA SHEETS

4.17 CERTIFICATION REGARDING DEBARMENT, SUSPENSION INELIGIBILITY AND VOLUNTARY EXCLUSION

INDIAN RIVER COUNTY SHERIFF'S OFFICE

BID/RFP #: 2023-02

PROJECT TITLE: Design Build: Administrative Service Complex

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-Procurement Programs.

- 9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- 10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name of Applicant:

Title of Applicant:

Signature of Applicant:

Date:

SECTION 4- BID DATA SHEETS

4.18 E-VERIFY COMPLIANCE AND AFFIDAVIT INSTRUCTIONS

In order to conduct business with the Indian River County Sheriff's Office (IRCSO), the Contractor must complete the Contractor Affidavit of Compliance form and the Subcontractor Affidavit of Compliance form, if applicable. If the Contractor is exempt from E-Verify compliance under Florida Statue 448.095 and IRCSO policies and procedures, IRCSO requires a completed, signed Contractor Affidavit of Compliance confirming E-Verify compliance from any vendor providing labor or services in an amount that exceeds \$2,499. The E-Verify program is a federal program operated by the US Customs & Immigration Services branch of the Department of Homeland Security.

- a) First, register your company at: <https://www.e-verify.gov/e-verify-enrollment> if you have not already done so.
 - For questions regarding E-Verify - visit: <https://www.e-verify.gov/contact-us> or email E-verify@dhs.gov or call 888-464-4218
- b) Log in to your registration account at: <https://e-verify.uscis.gov/web/Login.aspx> and view your Memorandum of Understanding (MOU).
 - Your company ID Number is listed at the top of every page.
 - This is NOT your E-Verify user ID, BCSD Vendor ID, or Tax ID.
- c) Complete, sign, and notarize the attached Contractor Affidavit of Compliance.
 - Please make sure the Notary seal is legible.
 - "Name of Contractor or subcontractor" is same as Vendor's Name.
 - "Name of Project" – This can be left blank.
 - "Date of Authorization" is the date you registered for E-Verify.
 - "Federal Work Authorization User Identification Number" is a six or seven digit number.

Subcontractor Affidavit of Compliance – If the Contractor is using a subcontractor to perform the services under this contract, the Subcontractor must register and participate in E-Verify and sign, notarize, and submit the Subcontractor Affidavit of Compliance, as well.

Contractor Affidavit of Exception – If the Contractor meets the following exceptions for E-Verify compliance under

O.C.G.A. 13-10-90, *et seq.*, the Contractor must fill out, sign, notarize, and submit the Affidavit of Exception form. Exceptions include:

- a) The Contractor is a sole proprietor with no employees, subcontractors, or sub-subcontractors, and it will not use or hire employees, subcontractors, or sub-subcontractors for any work performed for BCSD under the contract. This requires submission of a Georgia driver's license or a license from an approved state.
- b) The Contractor will provide **goods only** to IRCSO and will not render any services to Indian River County Sheriff's Office. *If your company provides goods along with ancillary services, such as maintenance, repairs, help desk support, customer support, technological support, or any other ancillary services, your company cannot file an Affidavit of Exception and must register with E-Verify.*
- c) The Contractor is a foreign company, and the work performed under the contract will be done in a foreign country by residents of that country.

E-VERIFY AFFIDAVIT

CONTRACTOR AFFIDAVIT UNDER FLORIDA STATE STATUES 448.095

The undersigned contractor ("Contractor") executes this Affidavit to comply with Florida Statue 448.095 related to each, ever y, and any contract to which Contractor is a party with **Indian River County Sheriff's Office** that is subject to Florida State Statue 448.095 and hereby verifies its compliance with Florida State Statue 448.095, attesting as follows:

- a) The Contractor has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program;
- b) The Contractor will continue to use the federal work authorization program throughout the contract period, including any renewal or extension thereof;
- c) The Contractor will notify **Indian River County Sheriff's Office** in the event the Contractor ceases to utilize the federal work authorization program during the contract period, including renewals or extensions thereof;
- d) The Contractor understands that ceasing to utilize the federal work authorization program constitutes a material breach of Contractor's contract with **Indian River County Sheriff's Office**;
- e) The Contractor will subcontract for the performance of services in satisfaction of such contract only with subcontractors who complete, sign, notarize, and provide the Subcontractor Affidavit to the Contractor with the information required by F.S.S. 448.095 prior to beginning the performance of services;
- f) The Contractor acknowledges and agrees that this Affidavit shall be incorporated into each, every, and any contract(s) with **F.S.S. 448.095** subject its' provisions to which Contractor is a party after the date hereof without further action or consent by Contractor.

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Date Executed:

Signature of Authorized Officer or Agent

Printed Name & Title of Authorized Agent/Officer

E-VERIFY AFFIDAVIT

SUBCONTRACTOR AFFIDAVIT UNDER FLORIDA STATE STATUES 448.095

By executing this affidavit, the undersigned subcontractor (hereinafter the "Subcontractor"), which is engaged in the physical performance of services under a contract with (name of Contractor) on behalf of **Indian River County Sheriff's Office**, verifies its compliance with F.S.S. 448.095, stating affirmatively that the Subcontractor has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in FSS 448.095.

Furthermore, the Subcontractor will continue to use the federal work authorization program throughout the contract period, and the Subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the Subcontractor with the information required by F.S.S. 448.095. Additionally, the Subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the Contractor within five business days of receipt. If the Subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the Subcontractor must forward, within five business days of receipt, a copy of the notice to the Contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Date Executed:

Signature of Authorized Officer or Agent

Printed Name & Title of Authorized Agent/Officer

E-VERIFY AFFIDAVIT

AFFIDAVIT OF EXCEPTION

I attest that I am exempt from providing a Contractor Affidavit of E-Verify Compliance to Indian River County Sheriff's Office in accordance with F.S.S. 448.095, as amended, for one of the following reasons:

_____ I am a sole proprietor with no employees, subcontractors, or sub-subcontractors, **and** I will not use or hire employees, subcontractors, or sub-subcontractors for any work performed for IRCSO under the contract.

In order to be exempt from compliance under the above exception, in addition to this affidavit you must provide a copy of your State of Florida driver's license.

_____ My company/firm will provide **goods only** to Indian River County Sheriff's Office and will not render any services to IRCSO. *If your company provides goods along with ancillary services, such as maintenance, repairs, help desk support, customer support, technological support, or any other ancillary services, your company cannot file an Affidavit of Exception and must register with E-Verify.*

_____ My company is a foreign company, and the work performed under the contract will be done in a foreign country by residents of that country.

Name of Project: _____

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Date Executed:

Signature of Authorized Officer or Agent

Printed Name & Title of Authorized Agent/Officer

SECTION 5.0- EVALUATION AND AWARD PROCESS

5.1 Evaluation Factors

In order to facilitate the analysis of responses, the Indian River County Sheriff's Office reserves the right to reject the Bid of a non-responsive and non-responsible Bidder. A Bidder must be, at the time of the Bid opening, a fully authorized agent or representative of the product or service, and capable of producing, providing or installing the items within the Bid, and so certify upon request.

The Sheriff's Office shall consider the firms qualifications, compliance of requirements, and time of completion as evaluation factors. Any inconsistencies shall be brought to the attention of the intended awardee for adjustment prior to award, unless the omissions is a required document/form in which actions may result in rejection of the bid as non-responsible.

The Sheriff's Office may consider the qualifications and experience of subcontractors and other persons and organizations (including those who are to furnish the principal items or material, services, or equipment) proposed for those portions of the work as to which the identity of subcontractors and other persons and organizations must be submitted. The Sheriff's Office may also consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the WORK when such data is required to be submitted prior to the Notice of Tentative Award.

5.2 Evaluation and Selection Process

The selection of the Design-Build Firm or Team will be chosen by the Selection Committee. The Selection Committee shall be comprised of representations of the Indian River County Sheriff's Office that have a key stake in the overall success of this project.

The Selection Committee will receive and review submittals in an effort to determine:

- Compliance with the format set out in Section III of this RFP.
- Those firms or teams meeting the minimal qualifications and those who's proposed approach best suits the needs of this project
- Determine the top-three highest rankings firms to become short-list candidates for the project.
- Of the short-listed candidates, the Selection Committee will select a participate in technical presentations provided by the bidders and make a final selection based on the results of the presentations. Short-listed candidates must provide a technical presentation that outlines the Design-Builds Teams recommendations on project specifications and overall approach to the construction. Presentations will be allotted 30 minutes for presenting and 15 minutes for questions and answers.

5.3 Bid Tabulation

Bid tabulations shall be posted in the public files for this proposal and on the Indian River County Sheriff's Office website <https://ircsheriff.org/vendor-resources> after all award activities have been completed.

The Selection Committee will evaluate the submissions of each firm or team, based upon the criteria listed in the table below. The Owner has judged each major category of criteria to be worth the point value given, as a maximum, in establishing committee rankings of submittals.

QUALIFICATIONS EVALUATION			
Item #	Major Category	Max Points	Criteria
1	Cover Letter & Statement of Interest	25	Introduction of team, team background (if not single firm), clarity in expressing interest, specific compelling reasons why project is a good fit for the firm/team
2	Firm/Team Description and Information	10	Basic company information; form of ownership; history and growth of firm(s)
3	Firm/Team Financial Information	15	See Section 3, Item 3 in the RFP for specific requirements
4	Firm/Team Current Legal Status	20	Firm's/Team's Litigation Record
5	Firm/Team Relevant Project Experience	40	Firm's/Team's experience with projects using Design Build delivery method. Experience with similar projects in size and scope. Experience with preconstruction, construction, and post construction services.
6	Firm/Team References	30	Quality of references from an Owner for the proposed team; record of designing projects on time and budget
7	Firm/Team Personnel	30	Depth of resources with experience and ability, qualified and available for: Lead architect role, lead civil engineer role; lead MEP & structural engineering roles; Depth of resources with experience and ability, qualified and available for: Lead CM Principal; Project Manager; and other key personnel roles. Qualifications and experience of proposed key sub-contractors & consultants.
TECHNICAL PROPOSAL EVALUATION			
1	Understanding of the Project	30	Firm/Team's demonstrated ability to present design construction phase info, deliverables, and resources needed to complete each project; Firm/Team's demonstrated ability to communicate potential issues that may have an impact on the technical, administrative, staff participation, and design-construction tasks; Firm/Team's demonstrated ability to present their capabilities, through previous experience, that shows how the firm can solve complex project issues creatively
2	Additional Services Required	05	Identify any additional services that might be required in order to complete the project.
3	Computer Capabilities	10	<ul style="list-style-type: none"> • File Transfer Protocol (FTP), Submittal processes • Regular Business Software such as Spreadsheet, Word Processing, Presentation, and Communications • Project Construction Budgeting / Cost Estimating / Reporting and Management
4	Current Project Assignments	10	Availability of the proposed Team for this Program and Firm/Team's office workload covering the expected period of work
5	Statement of Why Firm Should be Selected	20	Provide specific information that differentiates firm/team from competitors
6	Responsiveness of Submittal	10	Extent to which the instructions in the RFP were followed
7	Fee Schedule	40	Refer to Submittal Requirements to achieve required fees and budget estimates as requested in Section 3 – Sub Section 3.5.3
Qualifications Evaluation = 170 Maximum Points Technical Proposal Evaluation = 130 Maximum Points Total Possible Points = 300 Points			

5.4 Award of Contract

The Sheriff's Office the right to award item by item, and/or group by group or on an all or none basis to the lowest responsive, responsible Bidder that provides the best value to the Agency.

NO AWARD RECOMMENDATION SHALL BE MADE UNTIL THE COMPLETION OF THE NEGOTIATIONS PHASE.

NO AWARD SHALL BE DEEMED FINAL AND SHALL BE DEEMED CONDITIONAL, UNTIL THE PARTIES HAVE FULLY EXECUTED THE CONTRACT AGREEMENT(S) OR A PURCHASE ORDER HAS BEEN ISSUED BY THE SHERIFF'S OFFICE TO THE BIDDER. THE SHERIFF'S OFFICE RESERVES THE RIGHT TO REVOKE ANY AWARD MADE HEREUNDER, WITHOUT PENALTY, PREMIUM OR OBLIGATION, AT ANY TIME PRIOR TO THE DELIVERY OF THE FULLY EXECUTED AGREEMENT(S) OR PURCHASE ORDER. NO BIDDER SHALL BE ENTITLED TO RELY ON ANY ANNOUNCEMENT OF AN AWARD, AND THE SHERIFF'S OFFICE SHALL IN NO WAY BE ESTOPED IN THE REVOCATION OF AN AWARD PREVIOUSLY GRANTED.

Section 119.071(1)(b)2., F.S., provides an exemption for "sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation" until such time as the agency provides notice of an intended decision or until 30 days after opening "the bids, proposals, or final replies," whichever is earlier.

5.5 Contract Requirements

The Sheriff's Office the right to award item by item, and/or group by group or on an all or none basis to the lowest responsive, responsible Bidder that provides the best value to the Agency. The final terms and conditions of the contract supersede the information provided here. The information below is intended to provide base requirements for Offerors. It is not the intent of Indian River County Sheriff's Office to limit opportunities to reduce cost or expedite the schedule. Alternatives that allow the Design Build to "fast-track" the project and incorporate value engineering and the advantages of such alternatives should be adequately explained in the technical proposal. It is also the intent of the Indian River County Sheriff's Office to a single contract with a Design Build Team.

5.5.1 Form of Agreement

The Owner intends to enter into a Contract with the Selected Offeror. If the selected offeror is a single entity, Indian River County Sheriff's Office will contract with that entity. If the selected Offeror is a team, Indian River County Sheriff's Office will contract with the Construction firm, who shall be contractually obligated. The Construction firm and the design-build team may contract between themselves as prime/sub-contractors, joint ventures', etc. Conditions of the Contract Agreement shall be communicated via RFP or via Addendum. The Contract Agreement is **NOT** subject to negotiation.

It is the intent of the Owner to utilize a Design Build contract for the Cost of the Work plus a Fixed Fee with a Guaranteed Maximum Price (GMP). **(Refer to Attachment "A"; Only required for short-listed candidates)**

It is the intent of the Owner to execute the contract allowing the Design Build firm or team to complete the Design phase in packages for expediency of construction. Along the way it will be the responsibility of the Design Build firm or team to work with the Owner to ensure the total cost of work is not outside the total project.

Once a Design Phase Package is completed and Construction Documents for permits have been submitted for approval, the Design Build firm or team will be requested to provide the owner with a Guaranteed Maximum Price (GMP) for that package AND each successive design and construction phase with the total, including all previous Design phases and Construction estimates, not to exceed the total Project Budget.

5.5.2 Terms of Payment and Cost Control

The project delivery method to be utilized for this project is Design Build that incorporates conditions of a cost-plus fixed fee with a Guaranteed Maximum Price contract. This total cannot exceed the project budget. The Design Build firm or team will be required to provide a Part 1 detailed cost estimate for the Design. This Design Estimate shall be reviewed and evaluated by the Owner.

Furthermore, once Part 2, and any more successive Parts of the contract have been executed for construction, the Design Build firm or team shall obtain competitive bids for work that is not self-performing and prepare detailed cost estimates for work it intends to self-perform based on construction documents approved by the Owner and all appropriate permit-issuing agencies. The bids and detailed Construction Documents Estimate shall be reviewed and evaluated by the Owner. While there are no minimum requirements for number of bids or limitations on self-performed work, the Design Build firm or team is required to take all reasonable steps to minimize costs while adhering to IRCISO's Project Standards.

Offerors are required to describe their proposed cost control methods in this Submission. During the course of construction, detailed cost reports with associated back up will be submitted as part of the Application for payment. At no time will payments exceed the GMP without prior written and approved Change Orders.

5.5.3 INSURANCE AND BONDS

5.5.3.1. The Design Build firm or team shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance specified in the Design Build Contract. The insurer shall be in good standing within the state of Georgia through the Insurance Commissioner's Office and must be rated A- or better with AM Best Company.

5.5.3.2. The Certificate of Insurance evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting Newton County's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Capital Project Manager.

5.5.3.3. The Certificate of Insurance shall reference the RFP identification number and description as evidencing this requirement.

5.5.3.4. The Contractor shall insert the substance of this requirement, including this paragraph, in subcontracts under the contract that require work on property and shall require subcontractors to provide and maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Purchasing Department upon request.

5.5.3.5. Comprehensive General Liability:

This shall be taken out in the name of the Construction Management firm with the Board of Commissioners of Newton County, the City Schools of Decatur, its board members, officers, and employees, to be included as an additional insured. It shall include Comprehensive Form, Premise Operations, Explosion and Collapse Hazard, Underground Hazard, Products and Completed Operations Hazard, Broad Form Property Damage, Independent Contractors, Contracts, Personal Injury, etc.

- Combined Single Limit shall not be less than \$1,000,000.00 for each occurrence and not less than \$2,000,000.00 for each accident

5.5.3.6. Automobile Liability Insurance:

Taken out in the name of the Construction Management firm

- Combined Single Limit shall not be less than \$1,000,000.00 for each occurrence and not less than \$1,000,000.00 for each accident

5.5.3.7. Worker's Compensation Insurance:

Both the Construction Management Firm and the Design-Build Firm shall obtain and maintain Worker's Compensation Insurance in accordance with statutory requirements and Employer's Liability Insurance covering all employees of the CM Firm, the Design-Build firm and any uninsured sub-contractor(s). It shall be the responsibility of the Construction Management firm to ensure the Design-Build firm's compliance with this requirement.

- Combined Single Limit shall not be less than \$1,000,000.00 for each occurrence before commencing any job, the Design Build firm or team shall provide the Director of Facilities & Maintenance, with satisfactory evidence that the above-mentioned insurance is in force, to be evidenced by an affirmative approval of the insurance from the Purchasing Department.

5.5.3.8. Professional Liability Insurance:

This shall be taken out in the name of the Design-Build Team. Design Team shall provide \$2,000,000.00 Minimum for Errors and Omissions.

5.5.3.9. Performance and Payment Bonds:

CM/DB team's Performance and Payment Bonds shall be issued by a Surety company that is:

- (1) listed in the most current US Treasury List (Circular 570) and who's underwriting capacity, as shown on that list, is ample for the Projects, and
- (2) rated by A. M. Best Co. with a minimum rating of A-. The CM/DB team's Performance and Payment Bonds shall ensure two things:
- (3) The entire financial strength of a solid Surety (insurance company) will stand behind all of the obligations of the firm or team (joint venture), and
- (4) Each of the firms or teams will have their entire financial strength on the line as each team member will be required to give their individual indemnity agreements to the Surety for this Project. Before commencing any work, the Design Build firm or team shall provide the Purchasing Department with certificates of insurance or other satisfactory evidence that the above-mentioned insurance and bonds are in force, to be evidenced by an affirmative approval of the insurance from the Director of Facilities & Maintenance.

5.5.3.9. HOLD HARMLESS AND INDEMNIFICATION

The Offeror agrees, insofar as it legally may, to indemnify and hold harmless the Indian River County Sheriff's Office and their officers, employees and agents from and against all loss, costs, expenses, including attorneys' fees, claims, suits and judgments, whatsoever in connection with injury to or death of any person or persons or loss of or damage to property resulting from any and all operations performed by Offeror, its officers, employees, and agents under any of the terms of the contract.

The selected individual/firm will be expected to enter into a formal contract with Indian River County Sheriff's Office for the provision of the architectural services. ***The final contract will be determined through negotiations*** between Indian River County Sheriff's Office and the selected individual/firm using the proposal submitted as a basis for negotiations.

End of Evaluation and Award Process



BID #2023-02

**DESIGN BUILD:
ADMINISTRATIVE SERVICE COMPLEX
ATTACHMENT A**

**STANDARD FORM OF CONTRACT FOR CONSTRUCTION
MANAGEMENT/DESIGN BUILD SERVICES
INCLUDING CONSTRUCTION FOR A GUARANTEED
MAXIMUM PRICE**

Indian River County Sheriff's Office
4055 41st Ave
Vero Beach, FL 32960

www.ircsheriff.org

772-569-670



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CONTRACT FOR
CONSTRUCTION MANAGEMENT/DESIGN BUILD SERVICES

This agreement (the "Agreement") is made and entered into by and between the Indian River County Sheriff's Office ("Owner"), a Constitutional Officer in the State of Florida, and _____ (e.g. "Florida corporation") ("Construction Manager").

This Agreement shall become effective on the date it is executed by the last party to execute it (the "Effective Date"). For and in consideration of the mutual promises, covenants and agreements set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Owner and Construction Manager agree as follows:

ARTICLE 1

DEFINITIONS

- 1.1 "Applicable Laws" means all laws, statutes, ordinances, codes, building codes, regulations, rules, orders and resolutions of all national, administrative, state, local, municipal, and other governing bodies relating to the Project or to the performance of the Services or the Work.
- 1.2 "Architect" means the architect employed by Construction Manager, or alternatively, the architect employed by or contracting with the Design Build firm with which Construction Manager has subcontracted to perform design-build Work that Construction Manager is required to perform pursuant to this Agreement.
- 1.3 "Change Order" means a written order to Construction Manager executed by the Owner and Architect in accordance with the contract, authorizing and directing an addition to, deletion from, or adjustment or revision to the requirements of the Contract Documents, or an adjustment to the compensation payable to Construction Manager, or to the time for performance of the contract and completion of the Project, or any combination thereof.
- 1.4 "Construction Phase" means the phase of the Project commencing upon completion of the Design Phase, or upon award of the first Subcontract related to construction of the Project, whichever occurs first, and ending upon Architects and Owner's Representative's execution of the Certificate of Final Completion of the Project. The parties acknowledge that the Design Phase and the Construction Phase may overlap.
- 1.5 "Construction Phase Services" means Services rendered during the Construction Phase of the Project.
- 1.6 "Day", unless otherwise stated, means calendar day.
- 1.7 "Design for Construction" means the complete and final design and construction documents provided by Architect and shall include the plans and specifications prepared by or on behalf of Architect for use in constructing the Project, performing the Work, and rendering the Project fully operational. All changes and modifications to the Design for Construction issued in accordance with the requirements of this Agreement shall become and be a part of the Design for Construction.
- 1.8 "Design Phase" means the phase of the Project commencing upon the Effective Date of this Agreement and ending upon completion of the Design for Construction for the Project.
- 1.9 "Design Phase Services" means all Services required during the Design Phase of the Project.

1.10 "Final Completion" means the completion of all Work required by, and in strict compliance with, the Contract Documents, including start-up, testing, obtaining regulatory approvals from all applicable authorities, and all preparations necessary to operate and maintain the Project.

1.11 "GMP" means the Guaranteed Maximum Price for the Project, as defined and subsequently established in paragraph 14.2, below.

1.12 "Other Contractors" means any contractor, but not including Construction Manager or the Subcontractors, with whom Owner enters into a direct contract for the performance of any portion of work in connection with the Project.

1.13 "Owner's Representative" means the individual named by Owner, in writing and as such writing may be amended from time to time, to act on Owner's behalf in the administration of this contract. Owner's Representative does not have authority to waive or modify any condition or term of the Contract Documents.

1.14 "Preliminary Design" means all design documents constituting the preliminary design as required and defined in this Agreement.

1.15 "Project" means, and is inclusive of, the facility described in the Owner's program and all of the following as necessary to design and construct that facility: pre-construction services for all projects within the program; cost management; schedule management; design document development; permitting to all authorities having jurisdiction; full Construction Management, Design-Build and Post Construction services for all projects within the Program, including the development of as-built drawings.

1.16 "Reimbursable Expenses" means those items, and only those items, set forth in Exhibit "A" properly documented and reasonably, necessarily, and actually incurred by Construction Manager in the performance of the Services and the Work.

1.17 "Services" means those services, functions, roles, responsibilities, obligations and duties required of Construction Manager pursuant to the terms of the Contract Documents.

1.18 "Subcontracts" means the contracts between Construction Manager and any Subcontractor.

1.19 "Subcontract Costs" means those sums properly paid or due and payable by Construction Manager under the terms of the Subcontracts.

1.20 "Subcontractor" means any person or entity having a direct contract or purchase order with Construction Manager for the performance or supply of all or any portion of the Work required by the Contract Documents or the supply of any materials, services, equipment or installation services required by the Contract Documents.

1.21 "Substantial Completion" means that stage of completion of the Project, or a designated Phase thereof, including testing, approval by any applicable regulatory authority, and receipt of the final certificate of occupancy, such that the Work and the Project, or the designated Phase thereof, are functionally and legally usable by Owner for the purpose for which they are intended.

1.22 "Value Engineering" means the detailed analysis of systems, equipment, materials, services, facilities, and supplies required by the Contract Documents for the purpose of achieving the desired and essential functions of the Owner's program at the lowest Life Cycle Cost consistent with required and necessary performance, reliability, quality and safety. "Life Cycle Cost" means the sum of all costs of the Project over its useful life, and includes the cost of design, construction, acquisition, operation, maintenance, and salvage/resale value.

1.23 "Work" means any and all labor, supervision, work, supplies, fixtures, furnishings, vehicles, equipment,

services, tools, materials, computers, utilities, items, documents and things required by the Contract Documents to be performed or supplied, including all construction, testing, and permitting required to render the Project, and every component thereof, operational and usable for its intended purpose.

1.24 "Work Site Rules" are those rules set forth in Exhibit J, which Construction Manager shall follow and enforce.

ARTICLE 2

THE CONTRACT DOCUMENTS

2.1 Contract Documents Defined. The contract between the parties shall consist of the "Contract Documents." The Contract Documents shall include this Agreement, the Design for Construction, any supplemental or special conditions, and all documents expressly annexed hereto as part of this Agreement. Change Orders issued hereafter, and any written amendments to this Agreement executed by Owner and Construction Manager, shall become and be a part of the Contract Documents. Documents not expressly listed above are not Contract Documents and do not constitute part of the contract between the parties.

2.2 Priority of Documents. In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents, interpretation will be based on the following descending order of priority:

- (1) This Agreement.
- (2) Supplemental or Special Conditions (if any).
- (3) Specifications.
- (4) the Design for Construction, and among the plan documents therein, the following:
 - (i) As between figures given on plans and scaled measurements, the figures shall govern;
 - (ii) As between large scale plans and small-scale plans, the large-scale plans shall govern.

2.3 Substitutions. If Owner elects to accept any items proposed by Construction Manager as a substitution, Construction Manager shall assume full responsibility for the proper performance of such substituted items and shall assume the costs of any changes in the Work which may be due to such substitution.

2.4 Design Document List. The Owner has requested the Construction Manager to prepare a list of the plans, specifications and other documents constituting the Design for Construction (the "Design Document List"). The Design Document List shall be annexed hereto as part of this Agreement.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

3.1 Specific Representations and Warranties. By executing this Agreement, Construction Manager makes the following express representations and warranties to Owner:

3.1.1 Construction Manager is professionally qualified to act as the construction manager/design-builder for the Project and has, and shall maintain, any and all licenses, permits, and other authorizations necessary to act as the construction manager and design-builder for the Project and to perform the Services required hereunder, or has contracted with an entity that has and shall maintain any and all licenses, permits and other authorizations necessary to act as the construction manager and design-builder for the Project.

3.1.2 Construction Manager understands and agrees that this Agreement is a Construction Manager/Design-Build agreement and that Construction Manager is responsible for performing the entire scope of Work set forth in this Agreement. Once the GMP is established, the Construction Manager will be "at risk" for completing

the Project within budget. The Construction Manager is the entity contracting with Owner and is responsible for the performance of the entire scope of Work hereunder. If Construction Manager does not employ the necessary design-build personnel directly, Construction Manager shall subcontract with a Design-Build firm that possesses and shall maintain at all times during the term of this Agreement including any extensions or renewals hereof, all licenses, permits and other authorizations necessary to act as a Design-Build firm. The Design-Build firm with which Construction Manager shall subcontract to perform design-build Work under this Agreement is _____.

3.1.3 Construction Manager has the capability and experience, including sufficient qualified and competent supervisory personnel, to efficiently and timely accomplish the Work and perform the Services, and Construction Manager will continuously furnish sufficient personnel to accomplish the Work and perform the Services in a timely and proper manner.

3.1.4 Construction Manager shall comply, and shall cause all Subcontractors to comply, with all Applicable Laws.

3.1.5 Construction Manager assumes full responsibility to Owner for the acts and omissions of Construction Manager's officers, employees, joint venture's, partners, subcontractors, consultants, and others employed or retained by Construction Manager or them in connection with the performance of the Services or the Work.

3.1.6 Construction Manager warrants to Owner that all labor furnished to perform the Work under the Contract Documents will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by the Contract Documents, and that the Work will be of good quality, free from faults and defects, and in strict conformance with the Contract Documents. Any Work not strictly conforming to these requirements may be considered defective.

3.1.7 All obligations related to or arising from all representations and warranties made in the Contract Documents shall be obligations of, and shall be deemed incorporated in, the performance bond furnished by Construction Manager/Design-Builder.

3.1.8 The Construction Manager represents, warrants and affirms that only truthful, complete and correct information has been provided to the Owner in the Construction Manager's Proposal ("Proposal") and in any other communication from the Construction Manager regarding the Construction Manager's qualifications or responsibility to perform the obligations of the Construction Manager/Design-Builder under this Agreement (all such information being referred to herein as "Qualification Information"). The Construction Manager further represents, warrants and affirms that in the event that any Proposal information changed in any material way after it was communicated from Construction Manager and before this Agreement is signed by all parties, Construction Manager has immediately notified the Owner, in writing, of such change or changes and Construction Manager agrees that Owner may take such action thereon as Owner deems appropriate. The Construction Manager acknowledges and agrees that the Owner has relied, and will continue to rely, on the truthfulness, completeness and correctness of the Proposal information. The Construction Manager acknowledges and agrees that all Proposal information is material and important to the Owner's evaluation of the Construction Manager's qualifications and responsibility to undertake the Construction Manager's obligations under this Agreement. Construction Manager acknowledges and agrees that if the Construction Manager knowingly provided any false, incorrect, misleading or incomplete information to the Owner in any Proposal information, or failed to advise the Owner in writing of any material change in such information as set forth in this paragraph, this Agreement shall be deemed to be materially breached by Construction Manager and subject to immediate termination for cause or rescission for cause by the Owner, at the sole option of the Owner. The Owner also shall have and retain any and all other rights and remedies provided by law, in contract or otherwise.

3.2 Enumerated Representations and Warranties Not Exhaustive. The representations and warranties enumerated in this Article 3 operate in addition to, and shall in no way supersede, limit, or restrict any other duty, responsibility, representation, or warranty, express or implied, created or required by the Contract Documents or by law.

ARTICLE 4

CONSTRUCTION MANAGER'S SERVICES AND DUTIES: GENERAL PROVISIONS

- 4.1 **Generally.** Construction Manager shall perform and provide the Services and the Work required by, or reasonably implied by or inferable from, the Contract Documents, shall be responsible for the design and construction of the Project in strict conformance with the requirements of the Contract Documents, and shall pay for all labor, supervision, materials, supplies, furnishings, equipment and things required by the Contract Documents. In performing its duties hereunder, Construction Manager shall be a fiduciary to the Owner in whom the Owner may place its full trust and confidence.
- 4.2 **Standard of Care.** Construction Manager shall perform the Services at a level, and be judged by a standard of care, that is consistent with the standards and quality prevailing among first-rate, nationally recognized construction management, design/build and general contracting firms of superior knowledge, skill and experience engaged in projects of similar size and complexity. Construction Manager shall carry out and complete the Services in an efficient, economical and timely manner, as expeditiously as is consistent with the level of skill and care required hereby and the interests of Owner, and in strict accordance with the Contract Documents.
- 4.3 **Permits, Notices, And Fees.** Construction Manager shall cooperate with and assist Owner as necessary in timely preparing and submitting all necessary submissions, notices, and applications to all relevant governmental authorities and assist in filing or obtaining from all relevant government authorities all necessary design documents, site plans, approvals, environmental permits, notices of commencement, inspection certificates, certificates of occupancy, and similar documents necessary for the construction, occupancy, and use of the Project. The Owner shall pay all governmental fees associated with the foregoing. Construction Manager shall obtain or, as applicable, cause Subcontractors to obtain all building and other permits required for construction of the Project, the cost of which shall be part of the GMP.
- 4.4 **Compliance with Applicable Laws.** Construction Manager shall reasonably ensure that the Services and Work are performed, and the Project is constructed, in a manner which meets the requirements of all Applicable Laws relating to the design, construction, occupation, and operation of the Project, including, but not limited to, building codes fire and safety regulations, and environmental regulations. Such Applicable Laws shall be deemed minimum standards for the Project. Where the requirements of the specifications and the accompanying plans exceed those of the Applicable Laws, the plans and specifications shall be followed. Construction Manager shall immediately notify the Owner's Representative in writing of any known violation by its employees or Subcontractors (including the Architect, whether an employee or a Subcontractor) of any Applicable Law, or any such violation of which the Construction Manager reasonably should have known.
- 4.5 **Communications in Writing.** All communications relating to the Project between Construction Manager and Owner's Representative shall be in writing or, as applicable, shall be confirmed in writing.
- 4.6 **Reporting Anticipated Delays.** Should Construction Manager, at any time during the course of the Project, have reason to believe that Construction Manager or any Subcontractor will be unable to meet a completion date of any activity which is on the critical path of the Project or which may delay Construction Manager, any Subcontractor, the Architect, or the progress of the Project, Construction Manager shall notify Owner's Representative in writing within forty-eight (48) hours, stating the reason for the delay, describing steps being taken to remedy the delay, and recommending steps for eliminating or reducing the extent and impact of such delays.
- 4.7 **Duty to Correct.** Construction Manager shall promptly correct any errors, omissions, deficiencies, or conflicts in its Services and the Work at its own cost and without additional compensation or reimbursement, and Construction Manager shall not be compensated or reimbursed for performing any Services necessitated by its failure to perform in strict accordance with the Contract Documents.

4.8 **Storm Water Discharge Permits.** Any provision of this Agreement to the contrary notwithstanding, and unless otherwise directed in writing by the Owner, the provisions of this paragraph 4.8 shall apply and the Construction Manager shall have and perform the duties, obligations and responsibilities of the Construction Manager set forth herein. The Construction

Manager shall: (i) prepare the Erosion, Sedimentation and Pollution Control Plan in accordance with the State of Florida Department of Natural Resources Environmental Protection Division storm water discharge permit (the "DNREPDSWD Permit"); (ii) perform the initial inspection of the installation of the control measures set forth in the Erosion, Sedimentation and Pollution Control Plan in accordance with the DNREPDSWD Permit; (iii) perform the weekly inspections and inspections after rain (or other precipitation) as are required by the DNREPDSWD Permit; and (iv) perform the duties, obligations and responsibilities of the "design professional" under the DNREPDSWD Permit. As used in the immediately preceding sentence, the term "design professional" shall have the meaning ascribed to it in the DNREPDSWD Permit. The Construction Manager shall provide, satisfy or otherwise comply with all applicable requirements and conditions of the DNREPDSWD Permit, including, without limitation, all notices, fees, plan implementation, monitoring, sampling, inspections, reports, record keeping, submittals and any other requirements and conditions of the DNREPDSWD Permit.

ARTICLE 5

5.1 DESIGN SERVICES

(A) **Generally:** Construction Manager shall perform all Design Services described in, contemplated by, inferable from, or necessary or desirable to achieve the objectives stated in the Agreement, including all Design Services necessary for the Project to be permitted, properly constructed by Construction Manager and used, operated and maintained by Owner in accordance with all applicable guidelines, requirements and standards. "Design Services" means any and all architectural, engineering and design services required to be performed by Construction Manager pursuant to the Contract and all labor, materials, supervision, equipment, computers, documents, and all other things necessary for the performance of such services.

(1) The Design Services required of Construction Manager under this Contract do not include, unless otherwise amended to the contrary:

- (a) Flood Plain Study and Delineation;
- (b) Wetlands Study and Delineation;
- (c) Offsite Utility System Design;
- (d) Domestic and Fire Water Wells, Towers or Pressure Booster Systems Design;
- (e) Studies, Drawings/Specifications required for off-site Road Developments/Improvements required for Indian River County Public Works or Florida Department of Transportation.
- (f) LEED design criteria or certification
- (g) FFE Selection, Planning, and Design {A Furniture Concept Plan is included for purpose of electrical, data, and communications coordination only}
- (h) Presentation documentation including models, renderings, 3-D modeling, etc.
- (i) Traffic Engineering
- (j) Detailed energy conservation studies, energy modeling, and detailed life cycle cost studies of the building envelope and systems beyond what may be required by applicable codes.
- (k) Providing extra services to make presentations for Zoning Board hearings, variances and appeals, Building Code variances and off-site drainage.
- (l) Providing a complete set of structural calculations of building structural components beyond what may be required by applicable codes.

(2) The Design Services required of Construction Manager under this Contract do include, without

limitation, building evacuation plans, site evacuation plans, demolition plans (if demolition is applicable), and any and all other services necessary to provide permittable drawings and specifications.

(B) **Owner's Review of Design Services:** Subject to Paragraph 13.6 of this Agreement, Construction Manager shall submit all documents produced as part of the Design Services to Owner's Representative for review and approval in accordance with the terms of the Contract. However, any such review or approval by Owner or Owner's Representative shall not relieve Construction Manager of or otherwise diminish its obligations under the Agreement. Owner may direct Construction Manager to make changes to any such documents in order to conform such documents to Owner's objectives. Any such changes by Construction Manager ordered by Owner shall not relieve Construction manager of its obligations hereunder unless, and only to the extent that, Construction Manager notifies Owner in writing within seven (7) days of receipt of Owner's directive to make such changes of any adverse impact on schedules, budgets, operational costs, operational performance, satisfaction of regulatory requirements, or other adverse impact that may result from such changes. Failure of Construction Manager to submit its notice within said seven (7) day period shall constitute a waiver by Construction Manager of any claim for an adjustment to the Guaranteed Maximum Price, the Design Schedule, the Contract Time, or any combination thereof.

(C) **Testing Consultant:** The Owner, at its cost, may retain one or more testing consultants (the "Testing Consultant") to provide, subject to the Owner's Representative's approval of the scope of services to be provided, design phase subsurface investigations, construction phase materials testing, and any special inspections required of Owner by Section 1704 Special Inspections of the Florida State Minimum Standard Building Code (International Building Code 2000, as amended in Florida). The services referred to in the immediately preceding sentence may be referred to herein as the "Testing Services." The Testing Consultant shall be chosen by the Owner in its sole and absolute discretion, subject only to applicable law. The Construction Manager hereby agrees with Owner that Construction Manager shall be and is responsible for, not later than the time set forth in the immediately succeeding sentence, submitting to the Owner's Representative specifications for the recommended scope of the Testing Services to be provided by the Testing Consultant. The Construction Manager shall submit to the Owner's Representative such proposed specifications for the recommended scope of Testing Services to be provided by the Testing Consultant sufficiently in advance of the Construction Manager's first need for any Testing Services, allowing ample time for the Owner's Representative to review and for revision if required by the Owner's Representative, and in any event, not later than six (6) weeks in advance of the Construction Manager's first need for any Testing Services. Subject to the provisions of Paragraph 13.6 of this Agreement, Owner's Representative shall review and approve, where appropriate, such recommended scope of Testing Services, or any portion thereof. The Construction Manager hereby agrees to coordinate and cooperate with the Testing Consultant in providing of such Testing Services as may be approved by the Owner's Representative. Without limiting the generality of the foregoing, the Construction Manager specifically agrees to coordinate with the Testing Consultant so as not to delay performance of the Design Services or the Work. Construction Manager's specifications for such Testing Services shall include, without limitation, all design phase subsurface investigations (sometimes commonly referred to as geotechnical services) and all construction phase materials testing required by any applicable law, rule, regulation, code, ordinance, standards, the Owner's contract with the Testing Consultant, this Agreement, or otherwise required by prudent design or construction practice in order to evaluate all pertinent subsurface, or geotechnical, considerations and all pertinent construction materials considerations relating to the design and construction of the Project, and shall include a separate statement of any special inspections required of Owner by Section 1704 Special Inspections of the Florida State Minimum Standard Building Code (International Building Code 2000, as amended in Florida). Such services may include, without limitation, subsurface investigations, soil and rock boring and other exploration procedures, sampling, destructive testing, field and laboratory testing or other inspection and testing services and preparing and submitting boring logs and reports or other logs and reports, during pre-construction and construction. The Construction Manager shall carefully review the Owner's contract with the Testing Consultant.

Notwithstanding any approval by the Owner's Representative of the Construction Manager's recommended scope of Testing Services, or any part thereof, in the event that any required Testing Services are beyond the scope of the Owner's contract with the Testing Consultant, or would entail additional cost thereunder, Construction Manager shall consult with Owner's Representative and obtain written direction before the Testing Consultant proceeds to provide such Testing Services. In the event that Construction Manager learns of any errors, omissions, inconsistencies, or other defects in the Testing Services provided by the Testing Consultant, the Construction Manager shall notify the Testing Consultant and the Owner immediately upon learning of same. Construction Manager shall be responsible for designing and constructing the Project in accordance with the analyses and recommendations of the Testing Consultant. For the avoidance of doubt, nothing herein shall be deemed or construed to: (i) require the Owner to pay for any testing services other than Testing Services approved in advance in writing by the Owner's Representative; or (ii) relieve the Construction Manager of any obligation to provide and pay for any required testing services it must supply under this Agreement.

(D) **Quality of Design Services:** Construction Manager shall be responsible for the professional quality, completeness, accuracy, and coordination of Design Documents. Construction Manager shall provide Design Services that will result in an operationally cost-efficient and economical facility that meets all environmental and regulatory requirements as of the date hereof and uses the most appropriate available technology. The design criteria shall meet, at a minimum, all state and local energy codes. Construction Manager shall provide for all testing and inspections required by sound professional architectural and engineering practices and by governmental authorities having jurisdiction over the Project; provided, however, that Owner shall pay the cost of approved Testing Services as set forth at Paragraph 5.2(C) of this Agreement.

(E) **RESERVED.**

(F) **Compliance with Laws and Regulatory Requirements:** In providing Design Services and Work, Construction Manager shall comply with the requirements of all federal, state, and local authorities having lawful jurisdiction over the Project. Construction Manager shall design the Project to meet all applicable requirements of building control laws and regulations in relation to the design, construction, occupation, and operation of the Project, including, without limitation, environmental standards, fire and safety regulations, and requirements and compliance with all other applicable standards and codes. Without limiting the generality of the foregoing, the Construction Manager shall comply with O.C.G.A. § 50-5-63, any applicable records retention requirements, and Florida's Open Records Act (O.C.G.A. § 50- 18-70, et seq.).

(G) **Duty to Correct Errors:** Construction Manager shall, without additional compensation, immediately correct any errors, omissions or deficiencies in its Design Services, Design Documents, and Work.

(H) **Schedule Of Design Services:** No later than _____, Construction Manager shall submit for Owner's Representative's approval the Design Schedule for the performance of Construction Manager's Design Services which shall include allowance for reasonable time required for Owner's Representative's review of submissions and for approvals of authorities having jurisdiction over the Project. The Design Schedule shall be presented in Microsoft Project, with such detail, and backed up with whatever supporting information the Owner requests. At a minimum, the Design Schedule shall include the design milestones set forth in this Agreement and shall include itemized tasks, separated by project phase if applicable, substantially as set forth in Exhibit B attached hereto and incorporated herein by reference, and shall include for each task: duration, start date, finish date, percentage completion, and a bar chart calendar. Critical tasks and interrelation of tasks shall be shown. The Design Schedule, when approved by Owner's Representative, shall not, except for good cause, be exceeded by Construction Manager. Not less frequently than biweekly (unless the parties otherwise agree in writing) Construction Manager shall update the Design Schedule to show actual progress and provide a copy to the Owner. Should Construction Manager at any time during the course of performing the Contract, have any reason to believe that it will be unable to meet any completion date in accordance with the Design Schedule,

it shall immediately notify Owner's Representative in writing. In such notice, Construction Manager shall state the reason for the delay including the party responsible, if any, and the steps being taken to remedy or minimize the impact of the delay. Failure of Construction manager to submit such notice shall constitute a waiver by Construction Manager of any claim for an adjustment to the fixed fee for Design Services, the Guaranteed Maximum Price, the Design Schedule, the Contract Time, or any combination thereof. All extensions of time shall be governed by paragraph 15.5 of this Agreement. Subject to the provisions of Paragraph 13.6 of this Agreement, Owner's Representative shall review and approve, where appropriate, the Design Schedule, or any portion thereof. Strict compliance with the requirements of this Paragraph shall be a condition precedent to payment to the Construction Manager, and failure by the Construction Manager to strictly comply with said requirements shall constitute a material breach of this Agreement.

5.2 PRELIMINARY CONSULTATION, PROJECT ANALYSIS & SCHEMATIC DESIGN

(A) Determining The Project Objectives: Prior to the preparation of the Schematic Design and the Preliminary Design as required by paragraph 5.3 below, Construction Manager shall first consult in detail with Owner, and shall carefully analyze any information furnished by Owner concerning requirements of the Project, which may include, but is not limited to, the Owner's policies, purposes, concepts, objectives, desires, and any design, construction, scheduling, budgetary or operational Project needs, restrictions, requirements, limitations, and objectives, as well as the Owner's Criteria. As used in this Agreement, the term "Owner's Criteria," means the following documents and things provided by the Owner:

- (1) Owner's Preliminary Program.
- (2) the following additional documents and things (if any): Owner's Milestone Schedule, Owner's Budget, Building and Campus reference drawings including surveys, floor plans and as-built drawings, and any requirements contained in or reasonably inferable from any one or more of the foregoing documents and things.

(B) Report on Project. Based on its study and analysis, and no later than the time specified in the approved Design Schedule, Construction Manager shall prepare and submit to Owner a Schematic Design written report setting forth Construction Manager's understanding and analysis of the Project requirements and identifying any design, construction, scheduling, budgetary, operational, or other problems or recommendations which may result from such requirements. The written report (i.e., Schematic Design Deliverables, written program, site plan, floor plans, elevations, roof plan, and outline specifications) of Construction Manager shall also include proposed solutions, including design alternative if appropriate, addressing each of the identified problems. Construction Manager shall review such report with Owner and shall implement such changes as Owner may require.

5.3 PRELIMINARY DESIGN

(A) Time For Preliminary Design: After reviewing with Owner the Schematic Design written report required by Paragraph 5.2(B) above, agreeing upon any proposed solutions to identified problems resulting from the requirements of the Project, and in accordance with the time specified in the approved Design Schedule, the Construction Manager shall prepare and submit to Owner's Representative a Preliminary Design for the Project. The Construction Manager shall present to the Owner's Representative the Preliminary Design for the Project not later than the time specified in the approved Design Schedule.

(B) Contents of Preliminary Design: The Preliminary Design shall address all requirements of the Project and shall include, without limitation, the following:

- (1) A written description of the materials and equipment to be incorporated into the Project and the location of same;
- (2) Feasibility analysis of the preliminary project floor plan indicating that the Work can be

accomplished within the schedule and time constraints within the Contract.

(C) To Be Reviewed with Owner: Construction Manager shall review with Owner both the Schematic Design and the Preliminary Design and shall incorporate any changes ordered by Owner with respect to said designs or with respect to the requirements of the Project. There may be one revision made to the Schematic Design and one revision to the Preliminary Design during the Owner review and approval process described in this paragraph. A total of three sets of documents will be provided to Owner at each phase of design for review and approval.

(D) Authorization To Proceed With Detailed Design: After satisfactory review, subject to the provisions of Paragraph 13.6 of this Agreement, of the Preliminary Design and incorporation of any changes or alterations authorized or directed by the Owner with respect to the Preliminary Design or with respect to Owner's Criteria, as and if modified, Owner's Representative shall authorize Construction Manager in writing to commence preparing the Detailed Design, or such part thereof as directed by Owner.

5.4 DETAILED DESIGN

(A) Time for Preparation: Not later than the time specified in the approved Design Schedule, Construction Manager shall prepare and submit to Owner's Representative the complete Detailed Design. Where appropriate, stages of design may be approached in phases, subject to approval of the Owner.

(B) The Detailed Design: The Detailed Design, which shall be the core of the Design for Construction, shall be provided in electronic form acceptable to the Owner, and shall include all Design Documents which shall describe with specificity all systems, elements, details, components, materials, equipment, and other information necessary for the complete construction of the Project and the rendering of the Project fully operational for its intended purposes, including satisfaction of all testing, permitting, qualifications, certifications, validations, and obtaining regulatory approvals by all applicable regulatory authorities required to render the Project and all its components operational and functionally and legally usable for their intended purpose. The Detailed Design shall be accurate, coordinated and in all respects adequate for construction and shall be in strict conformity, and strictly comply, with all applicable law, codes and regulations, and with all standards, criteria (including the Owner's requirements for the Project), and memoranda of policy furnished by the Owner. Products, equipment and materials specified for use shall be readily available unless written authorization to the contrary is given by the Owner. Subject to the provisions of Paragraph 13.6 of this Agreement, Owner's Representative shall review and approve, where appropriate, the Design Documents, or any portion thereof.

(C) Design Documents: "Design Documents" means all the design documents provided by or on behalf of Construction Manager and approved by Owner pursuant to the Contract including, without limitation, those for use in obtaining a permit for all of the work required to construct the Project, constructing the Project, performing the Work, and the rendering of the Project fully operational, and shall include, without limitation, detailed plans, drawings, specifications, manuals, and related materials prepared by or on behalf of Construction Manager. A total of three sets of design documents will be provided for the Owner's review and approval.

(D) Signature and Seal: All plans and specifications shall bear the signature and seal of an architect, duly licensed and registered in the State of Florida. Such architect must: (i) be a Qualifying Officer of the Construction Manager, or (ii) be a Qualifying Officer of the Design/Build firm with which the Construction Manager has contracted pursuant to this Agreement, or (iii) be a Subcontractor or a Qualifying Officer of a Subcontractor. As used in the immediately preceding sentence, the term "Qualifying Officer" means a director, in the case of a corporation, or a partner in the case of a partnership, or a member, in the case of a limited liability company, or an employee with an ownership interest who has been designated in writing as holding a position of authority within the entity which authorizes him or her to direct the architectural services offered

by that entity. Civil, survey, structural, electrical, and mechanical plans and specifications shall bear the signature and seal of the respective engineer, duly licensed and registered in the State of Florida. Two complete sets of all plans and specifications, properly signed and sealed, shall be furnished to the Owner.

(E) Calculation and Verification: The Construction Manager is responsible for the calculating in detail of all structural, mechanical and electrical work including, but not limited to, the furnishing to the Owner of life-cycle- costing and energy consumption analyses, in letter format from the engineer, for the purpose of ascertaining and verifying:

(i) adequacy and correctness of equipment specified or shown on the plans and

(ii) that the plans and specifications do not violate sound and accepted engineering principles; and

(1) to confirm that there has been ample provision in the entire structural system for expansion and contraction, including but not limited to, building frames, the roof system, gravel stops, gutters, roof expansion joints, metal flashing and metal counter flashing, roof decks, and masonry walls; and

(2) to confirm that there has been ample provision in the mechanical work for expansion and contraction. The requirements of this paragraph shall be met in accordance with the standard professional practice of these disciplines and do not require additional documentation of verification.

(F) Free from Leaks: The Construction Manager shall design all buildings in such manner that, if such buildings are constructed in accordance with the Agreement, such buildings will be free from leaks.

(G) No Calculated Risks: The Construction Manager agrees that budgetary limitations are not a justification for breach of sound principles of architectural and engineering design. The Construction Manager shall take no calculated risks in the design of the Work. The Construction Manager agrees to design and construct the Project for the Guaranteed Maximum Price without disregarding sound principles of design.

(H) Guaranteed Maximum Price Proposal: No later than , the Construction Manager shall submit a proposed Guaranteed Maximum Price to the Owner which Guaranteed Maximum Price ("GMP") will be the maximum amount of compensation due to the Construction Manager under this Agreement (except as set forth in a Change Order). The GMP will include separately a fixed fee for Design Services, a fixed fee for performing the Construction Manager's Construction Phase Services, and the Construction Manager's estimated cost of the Construction Phase Work (the estimated cost of all Construction Phase subcontracts, estimate of Construction Phase Reimbursable Expenses, and potentially a Construction Manager's construction contingency). The Construction Manager's submission shall be accompanied by a listing of the Design Documents on which it is based.

(I) No Cost to Be Incurred: Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal and issuance of a Notice to Proceed the Construction Manager shall not incur any cost to be reimbursed as part of the cost of the Work, except as the Owner may specifically authorize in writing, and the Owner shall have no liability to the Construction Manager, therefore.

(J) Guaranteed Maximum Price Amendment: Upon acceptance by the Owner of the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price and its basis shall be set forth in Amendment No. 1. The Guaranteed Maximum Price shall be subject to additions and deductions by a change in the Work as provided in the Contract Documents, and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

ARTICLE 6

ESTIMATING AND MONITORING PROJECT COSTS

6.1 Construction Cost Estimate. Within twenty-eight (28) days after the Construction Manager's completion of the Preliminary Design, Construction Manager shall prepare an estimate (the "Construction Cost Estimate") of the cost of constructing the Project in accordance with the requirements of the Preliminary Design and shall provide same to Owner's Representative. The Construction Cost Estimate shall be broken down and itemized in such detail, and supported by such backup and supporting documentation, as Owner's Representative may require, and shall include a recommended contingency for each element of the Work. Construction Manager shall revise the Construction Cost Estimate monthly until the GMP is established and shall provide such revised estimates, together with such itemization and supporting documentation as Owner's Representative may require, to Owner's Representative as part of the Monthly Reports required by paragraph 12.3 of this Agreement and as provided in the immediately succeeding sentence. If the foregoing monthly revisions of the Construction Cost Estimate do not coincide with the Construction Manager's 65%, 95% and 100% completion of the Design for Construction, then Construction Manager shall also provide revised estimates to the Owner's Representative at such stages of the design. The Construction Manager shall advise the Owner of any adjustments to previous estimates indicated by changes in Project requirements or general market conditions. If at any time the Construction Manager's Construction Cost Estimate exceeds the Owner's budget, the Construction Manager shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget.

6.2 Reducing Project Costs After Bidding. If, prior to the establishment of the GMP, the lowest responsive bid for construction or supply of an element of the Work exceeds the sum indicated in the Construction Cost Estimate for that element of the Work, then Construction Manager, in cooperation with Owner as required, shall negotiate with the bidder to lower the bid to an amount acceptable to Owner. If the negotiations with the bidder are unsuccessful in lowering the bid to an amount acceptable to Owner, Construction Manager shall perform further Value Engineering for that element of the Work. Owner may modify the Design for Construction in order to bring such bid within a range acceptable to

Owner, and Construction Manager shall assist in implementing any measures decided upon by Owner to achieve such savings.

6.3 Monitoring Construction Costs and Comparison to Estimates. Throughout the duration of the Project, Construction Manager shall regularly review and study the actual and anticipated costs of constructing the Project and shall compare them to the Construction Cost Estimate and, once established, to the GMP. As part of the Monthly Reports required by paragraph 12.3 of this Agreement, Construction Manager shall furnish to Owner's Representative a written analysis of the cost of the Work, including a comparison of the Construction Cost Estimate and the GMP with the actual costs for Work in progress, Work performed to date, and estimates for uncompleted Work.

6.4 Cash Flow Forecasts. Construction Manager shall analyze the Design for Construction, schedules of values submitted by the Subcontractors, and the Construction Schedule and shall prepare a written forecast of projected monthly payments to Construction Manager through Substantial Completion of all Phases of the Project. As a part of each Monthly Report, Construction Manager shall provide Owner's Representative with an updated forecast of such projected monthly payments.

6.5 Unit Cost Records. For all Work for which Construction Manager is compensated on a unit cost basis, Construction Manager shall maintain up-to-date records of the number of units performed or supplied and shall notify Owner's Representative in writing as soon as it reasonably appears that any quantities estimated in the Contract Documents may be exceeded.

ARTICLE 7

COMPLETION DATE AND SCHEDULES

7.1 Completion Date. Construction Manager shall achieve Substantial Completion of the Work under this Agreement in phases. Construction Manager shall achieve Substantial Completion of the Work by _____, or, if the time for Substantial Completion cannot be established at the time this Agreement is executed, then by the date established for Substantial Completion in the Owner- approved Preliminary Schedule ("Substantial Completion Date"). The time for achieving Substantial Completion may sometimes be referred to in the Contract Documents as the "Contract Time." Construction Manager shall achieve Final Completion of the Project within thirty (30) days after the Substantial Completion Date. Neither the Substantial Completion Date nor the time for Final Completion shall be changed except by Change Order issued in accordance with the terms of this Agreement.

7.2 Preparation of Preliminary Schedule. Within ten (10) days after the later of (i) the Effective Date of this Agreement or (ii) the completion of Construction Manager's Preliminary Design, and taking into account Owner's desired Substantial Completion Date as well as Construction Manager's schedule for completion of the Design for Construction, Construction Manager shall provide to Owner's Representative, in a summary form, a proposed schedule for the completion of the Project including milestone dates appropriate to the Project but at a minimum including dates for completion of the Design for Construction, applicable permitting requirements, long lead time items to be acquired by Owner or others, site work, work by major trades, fabrication and installation of all systems, Substantial

Completion of the Project, testing, and start-up (the "Preliminary Schedule"). The Preliminary Schedule shall be subject to Owner's approval. Construction Manager shall update the Preliminary Schedule monthly throughout the remainder of the Design Phase, but the Substantial Completion Date shall not be changed except by Change Order.

7.3 Preparation of Construction Schedule. Prior to the commencement of the Construction Phase, Construction Manager shall provide to Owner's Representative a detailed schedule for performance of all of the Work (the "Construction Schedule"). The Construction Schedule shall be in such form as Owner may require, shall utilize the critical path method of scheduling, and shall conform to the established Substantial Completion Date. The Construction Schedule shall coordinate and sequence all activities and performance by all participants in the construction of the Project, including Owner, Construction Manager, Architect and Subcontractors. The Construction Schedule shall identify those activities and events which are on the critical path. The Construction Schedule shall be subject to Owner's approval. In addition to, and not in limitation of, any other requirements of this Agreement, the Construction Manager shall comply with the requirements of Exhibit "B," Minimum Requirements for Construction Manager's Construction Schedule, attached hereto and Incorporated herein by reference.

7.4 Updating of Schedules. Construction Manager shall update the Construction Schedule on a monthly basis throughout the construction of the Project to reflect accurately Services performed and Work accomplished and to be accomplished. Such updates of the Construction Schedule shall be furnished to Owner's Representative monthly along with the Monthly Report required by this Agreement. Such updates shall detail all elements of Project progress and shall identify any delays relating to any activity on the critical path of the Project, the cause and extent of same, the projected impact on Substantial Completion of the Project by the Substantial Completion Date, and steps being taken and recommendations for eliminating or reducing the extent of such delays.

7.5 Owner's Approval of Preliminary and Construction Schedules. Upon Owner's written approval of the Preliminary Schedule and the Construction Schedule, Construction Manager may proceed in accordance therewith; however, Owner's approval of any schedule shall only indicate Owner's acknowledgment of the dates contained therein and shall not constitute ratification or approval of the accuracy, adequacy or logic of such schedule or of the means, methods, manner or sequence of work contained in such schedules. Owner's approval of the Preliminary Schedule or any Construction Schedule shall in no way diminish Construction Manager's duties to schedule and

coordinate the Work, which shall remain Construction Manager's sole responsibility, and shall not diminish or excuse Construction Manager's duties to perform its Services in a manner so as to achieve timely completion of the Project. In no event shall updates to the Preliminary Schedule or the Construction Schedule provided by Construction Manager, whether or not objected to or approved by Owner, constitute evidence of an adjustment in the Substantial Completion Date or Construction Manager's compensation hereunder.

7.6 Expediting to Maintain Schedule. Construction Manager, at its sole expense, shall take all reasonable steps to expedite performance of any activity, contract, delivery, or inspection where necessary to mitigate any delay caused by Construction Manager or its subcontractors or any other parties for whom Construction Manager may be responsible, to maintain the Preliminary or Construction Schedules, and to achieve Substantial Completion by the Substantial Completion Date.

7.7 Liquidated Damages. Construction Manager acknowledges and agrees that time is of the essence of this Agreement and that if completion and delivery of the Project to Owner is delayed, Owner will suffer damages which are difficult, if not impossible, to accurately quantify. Accordingly, if Construction Manager fails to achieve Substantial Completion or Final Completion, or both, as required by this Agreement, Construction Manager shall be liable to Owner for liquidated damages for unexcused delay as provided herein.

7.7.1 For Delay in Substantial Completion. Construction Manager shall pay Owner for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the Substantial Completion Date the sum indicated at Exhibit "C" attached hereto and by reference made a part hereof. Any sums due and payable hereunder by Construction Manager shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement. When Owner reasonably believes that Substantial Completion will be inexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due Construction Manager an amount then believed by Owner to be adequate to recover liquidated damages applicable to such delays. If and when Construction Manager overcomes the delay in achieving Substantial Completion, or any part thereof, for which Owner has withheld payment, Owner shall promptly release to Construction Manager those funds withheld, but no longer applicable, as liquidated damages.

7.7.2 For Delay in Final Completion. If Construction Manager fails to achieve Final Completion within thirty (30) days after Substantial Completion, Construction Manager shall pay Owner one-tenth (1/10) of the sum indicated at Exhibit "C" per day for each and every calendar day of unexcused delay in achieving Final Completion. Any sums due and payable hereunder by Construction Manager shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement. When Owner reasonably believes that Final Completion will be inexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due Construction Manager an amount then believed by Owner to be adequate to recover liquidated damages applicable to such delays. If and when Construction Manager overcomes the delay in achieving Final Completion, for which Owner has withheld payment, Owner shall promptly release to Construction Manager those funds withheld, but no longer applicable, as liquidated damages.

ARTICLE 8

PROCUREMENT OF SUBCONTRACTS, MATERIALS, AND SERVICES

8.1 Bidding and Contract Award. Construction Manager shall provide all necessary Services related to the bidding of Subcontracts for the construction of the Project, including:

- (a) preparing lists of prospective bidders;
- (b) preparing appropriate bid documents, including proposed forms of contract and purchase orders;
- (c) establishing bid schedules;

- (d) advertising for bids and developing bidder interest;
- (e) furnishing information concerning the Project to prospective bidders;
- (f) conducting pre-bid conferences;
- (g) receiving and analyzing bids and making recommendations to Owner regarding bid awards;
- (h) investigating the acceptability and responsibility of sub- subcontractors or suppliers proposed by any Subcontractor and advising Owner of such evaluations;
- (i) negotiating with Subcontractors concerning any matter related to the Project; and
- (j) such other services required by Owner with respect to the bidding process.

8.2 Approval of Subcontractors. Construction Manager shall not subcontract for any part of the Services or Work with any Subcontractor or consultant (including affiliates and subsidiaries of Construction Manager) who is not properly licensed or against whom Owner has a reasonable objection. Construction Manager shall provide Owner's Representative with such written information as Owner deems necessary in order to determine whether to object to the Construction Manager's hiring of any Subcontractor or consultant, including proof of license. If no objection is interposed by the Owner within ten (10) days of its receipt of such information, Owner shall be deemed to have no such objection and Construction Manager may execute such Subcontract and shall furnish Owner a copy of same.

8.3 Subcontract Requirements. All Subcontracts shall afford Construction Manager rights against its Subcontractors which correspond to the rights afforded to Owner against Construction Manager herein, including those rights of contract suspension, termination, replacement of unsatisfactory personnel at Owner's request, and documentation of Subcontractor charges as set forth herein. Except as otherwise approved by Owner in writing, or as otherwise required by applicable law, all Subcontracts shall provide for the retention of ten percent (10%) of amounts earned under the Subcontracts ("Subcontract Retainage"), and Owner shall not be responsible for releasing, paying, or compensating Construction Manager any amount on account of such Subcontract Retainage until such time as specified by this Agreement for release of retainage.

8.4 Coordination of The Subcontracts. Owner does not assume any responsibility for defining the limits on any Subcontracts on account of the arrangement of the specifications or plans. As part of the bidding and award of Subcontracts, Construction Manager shall ensure that the Subcontracts are coordinated so that all of the Work is properly and clearly allocated among, and assigned to, Construction Manager and Subcontractors without omission, conflict, or duplication. Construction Manager shall carefully review all Subcontracts to ensure:

- (a) that all subcontracted parts of the Work are assigned to appropriate Subcontractors;
- (b) that, unless provided for by Construction Manager, provisions are made for temporary facilities and utilities necessary for the performance of the Work and for Project site facilities necessary for Construction Manager and Owner to perform their duties in the management, inspection, and supervision of the Work;
- (c) that responsibility for Project safety programs is properly assigned;
- (d) that they are in compliance with Applicable Laws; and
- (e) that they are in compliance with Owner's Construction Managers' guidelines, if any.

8.5 RESERVED.

8.6 Construction Manager Responsible for Acts of Subcontractors. Construction Manager's subcontracting of the Services or the Work, and Owner's consent and approval of Construction Manager's subcontracting with any Subcontractor, shall not relieve Construction Manager from any liability or obligation under the Contract Documents or under any Applicable Laws. Construction Manager shall be responsible to Owner for any and all acts, defaults, omissions or negligence of its Subcontractors and consultants. It is expressly agreed that no relationship of agency, employment, contract, obligation or otherwise shall be created between Owner and any Subcontractor or consultant of Construction Manager, and a provision to this effect shall be inserted into all Subcontracts and other agreements between Construction Manager and its Subcontractors and consultants. In no event shall Owner be liable to any of Construction Manager's Subcontractors for Work performed by such Subcontractor on behalf of the Construction Manager or for the Project. Owner will not be asked to resolve disputes between Construction Manager and any

Subcontractor or disputes between Subcontractors.

8.7 Copies of Bids. Construction Manager shall provide copies of all bids to Owner's Representative.

8.8 Procurement of Special Services. Construction Manager shall schedule and coordinate services from surveyors, testing laboratories, and other special consultants required for the completion of the Work.

8.9 Orders of Materials and Equipment. Subject to Applicable Laws, Construction Manager shall, in accordance with Owner's procurement policies or, if approved in writing by Owner's Representative, Construction Manager's procurement policies, schedule, coordinate, expedite, and affect the purchase and delivery to the Project site of materials and equipment required to be provided by Construction Manager pursuant to the Contract Documents. Construction Manager shall perform expediting and inspection services after the placement of all such orders.

8.10 Procurement of Materials and Equipment on Owner's Behalf. Construction Manager shall be responsible for scheduling and coordinating, and if requested by Owner's Representative, for purchasing and for arranging appropriate delivery, storage and security for, all materials, furnishings, tools, fixtures, computers, and equipment to be furnished by Owner under the terms of the Contract Documents for use in performance and completion of the Work. The purchase price and transportation and storage costs associated with such items shall be borne by Owner and shall not be counted against the GMP.

ARTICLE 9

CONSTRUCTION ADMINISTRATION

9.1 Construction Manager to Enter into Subcontracts. Construction Manager shall enter into Subcontracts with Subcontractors for the performance of those portions of the Work not performed directly by the Construction Manager. Construction Manager shall protect Owner's interests during the performance of such Subcontracts and shall monitor and secure strict performance by the Subcontractors of all duties and obligations contained in the Subcontracts. Construction Manager shall promptly notify Owner's Representative in writing of any material breach by a Subcontractor and shall take all necessary steps to remedy such breach and to minimize the effect of such breach on the timely and proper completion of the Work, all at no additional cost to the Owner.

9.2 Scheduling and Coordinating Construction. Construction Manager shall be responsible for scheduling, coordinating, assigning work areas, and sequencing the Work to be performed and for coordinating same with design services and with Owner's activities and ongoing operations and any work that may be performed by Owner's own forces or Other Contractors, in a manner so as to substantially complete the Project by the Substantial Completion Date. Construction Manager shall perform all Services required under the Contract Documents in an expeditious fashion.

9.3 Preconstruction Conference. At an appropriate time after execution of Subcontracts, Construction Manager shall conduct a preconstruction conference and shall review with Architect and the Subcontractors any special requirements of Owner with respect to the Work, including Project access, safety requirements, Construction Manager guidelines, contract procedures, scheduling, requests for payment, Submittals, Change Orders, inspections, and any and all other matters relevant to the performance of Construction Manager, Architect, and the Subcontractors. Construction Manager shall prepare and furnish to Owner's Representative, Architect, and Subcontractors, within three (3) working days after the preconstruction conference, detailed minutes of such conference.

9.4 Confirmation of Insurance. Construction Manager shall timely procure and review all insurance certificates and policies required by the Contract Documents and the Subcontracts and provide copies of same to Owner's Representative. Construction Manager shall immediately cure and correct any failure of any Subcontractor or other

person to comply and remain in compliance with the insurance requirements of the Contract Documents and the Subcontracts. Construction Manager shall not permit any Subcontractor to enter the Project site or perform any Work relating to the Project unless such Subcontractor is and remains insured in accordance with the insurance requirements set out in the Contract Documents and the Subcontracts.

9.5 Review and Approval of Subcontractor Schedules of Values. Construction Manager shall procure, and carefully review, all schedules of values from each Subcontractor, together with any supporting documentation or data which Owner or Construction Manager may require from the Subcontractors. The purpose of such review and examination shall be to protect Owner from front- end loading and an unbalanced schedule of values which allocates greater value to certain elements of the Work than is indicated by such supporting documentation or data or than is reasonable under the circumstances. If any Subcontractor schedule of values is found not to be appropriate, or if the supporting documentation or data is deemed to be inadequate, Construction Manager shall negotiate with the Subcontractor to establish a balanced schedule of values. After making its review and examination, if the Subcontractor schedules of values are found by Construction Manager to be appropriate as submitted, or if necessary, as revised, Construction Manager shall sign and deliver same to Owner's Representative thereby indicating Construction Manager's informed belief that such schedules of values constitute a reasonable, balanced basis for payment to the Subcontractors. Construction Manager shall not sign a Subcontractor schedule of values in the absence of such belief unless directed to do so, in writing, by Owner's Representative.

9.6 Commencement of Construction. Upon receipt from Owner of a written notice to proceed with construction, and not before, Construction Manager shall commence performance of the Construction Phase of the Project and shall prepare and issue written notices to proceed to Subcontractors, as appropriate.

9.7 Supervision of Subcontractors. Construction Manager shall maintain a continuous presence on the Project site at all times during the Construction Phase of the Project through the provision of sufficient qualified supervisory and other personnel to perform the Services and obligations of this Agreement. Construction Manager shall continually supervise its own forces and its Subcontractors in a first-class manner. Construction Manager shall determine the adequacy of personnel, labor, materials, equipment, and direct supervision provided by Subcontractors and shall monitor their compliance with the Construction Schedule.

9.8 Job Progress Meetings. Construction Manager shall conduct meetings at least weekly, and at such additional times as the needs of the Project or good construction management practice may require, with the Subcontractors, and if necessary, with Architect, for the purpose of discussing all matters relating to the quality, quantity, and progress of the Work. Construction Manager shall within three (3) working days after each meeting prepare and distribute minutes of such meeting to Owner's Representative, the participants, and others who should reasonably be informed of the meetings.

9.9 Requests for Information and Interpretation. In cooperation with Architect, Construction Manager shall promptly provide information and interpretations to Subcontractors as necessary for the execution of the Work and shall expedite same where necessary to maintain the Construction Schedule. Where appropriate, Construction Manager shall transmit to Architect, with a copy to Owner's Representative, requests for information or interpretation from itself or made by any Subcontractor regarding the intent and meaning of the Design for Construction. Construction Manager shall maintain a log of all requests for information and interpretation (the "Request Log"), recording (a) the date each request was made; (b) the date the request was transmitted to Architect and Owner's Representative; (c) the date of receipt of the response to the request; and, if applicable, (d) the date the response to the request was transmitted to the Subcontractor.

9.10 Submittals. Construction Manager shall procure, review, and indicate its approval (or require re-submission if necessary) prior to forwarding to Architect and Owner each submittal required by the Contract Documents, including shop drawings, product data, samples, catalogues, and other submittals (collectively, "Submittals"). Approval by Construction Manager of Submittals shall constitute Construction Manager's representation to Owner that such

Submittals are in conformance with the requirements of the Contract Documents. The review and approval required by this paragraph shall be completed with reasonable promptness, and expedited where necessary, so as to cause no delay to the Subcontractors, or the Project. Construction Manager shall also maintain a detailed log (the "Submittal Log"), reflecting: (a) the date, where applicable, the Subcontractors submit to Construction Manager, and that Construction Manager submits to Architect, each Submittal; (b) the date of approval or rejection of each Submittal by Construction Manager or Architect; (c) the reason for the rejection of any Submittal; and (d) the date of each subsequent action by Construction Manager, Architect, Owner, or Subcontractors with respect to any Submittal. Construction Manager shall immediately report to Owner's Representative in writing any substantial delays in the Submittal process and the cause thereof and shall take appropriate steps to coordinate and expedite the Submittal process. The Architect's review of submittals shall not relieve the Construction Manager from its obligation for performance of the Work in strict compliance with the Contract Documents.

9.11 Liens and Subcontractor Payments. Construction Manager shall promptly pay when due all indebtedness for labor, materials, services, tools and equipment, and for any other items used in the performance of the Work. Construction Manager shall not permit any notice of lien or charge to attach to the Work or the premises upon which the Work is being performed. If any lien does so attach, Construction Manager shall promptly procure its discharge and hold Owner harmless from any losses, costs, damages or expenses (including attorneys' fees) incidental thereto.

9.12 Labor Relations. Construction Manager shall develop and implement a coordinated plan for labor relations to avoid labor disputes and to provide for the uninterrupted and efficient construction of the Project in accordance with applicable schedules and Owner's budgetary requirements. Construction Manager shall comply, and shall require all Subcontractors to comply, with Applicable Laws relating to the terms and conditions of employment of any employee who is employed in connection with the Project.

9.13 Protection of Persons and The Work. Construction Manager shall at all times take, or require to be taken, all necessary steps required to safeguard Owner's property and employees and students from injury or loss in connection with the performance of the Work and the Services. Construction Manager shall take, or require to be taken, all necessary steps to protect Owner's equipment, adjacent facilities, apparatus, and other property and all adjacent Work and property, including, but not limited to, the use of shoring, boarding, and other safeguards. Where the Work endangers the safety of pedestrians and drivers, barricades for traffic shall be used. Construction Manager shall keep Owner's property and the Work reasonably free from dampness, dirt, dust, and other damage and shall provide all reasonable security measures necessary to protect the Project from the elements, vandalism, theft, and other risks of property loss. All temporary protections shall be removed by Construction Manager upon completion of the Work.

9.14 Demolition. Removal of Materials and Burning. The use of explosives will not be permitted. The procedure proposed for the accomplishment of any required demolition work shall be submitted to Owner's Representative for approval. The procedure shall provide for safe conduct of the work, careful removal and disposition of materials, protection of property which is to remain undisturbed and coordination with other Work in progress. The procedures shall include a detailed description of the methods and equipment to be used for each operation, and the sequence of operations. All materials indicated to be removed shall be disposed of off the Owner's property. The use of burning at the Project site to dispose of refuse and debris is not permitted. Construction Manager shall control the amount of dust resulting from the operations to prevent the spread of dust from creating a nuisance in the surrounding area.

9.15 Site Limitation. Construction Manager shall obtain Owner's Representative's written authorization before establishing staging or "lay-down" areas.

9.16 Corrective Work. Construction Manager shall correct and complete all defective or incomplete Work. Such corrective Work shall be coordinated with, and performed in a manner to minimize disruption to, Owner's personnel, facilities, students and operations.

9.17 Review and Analysis of Claims. Construction Manager shall review, and study all claims for additional

compensation or requests for extensions of time submitted by the Subcontractors. Construction Manager shall assemble and provide timely to Owner's Representative the pertinent documentation relating to any such claims, consult with Owner's Representative regarding the claims, and take such action thereon as Owner's Representative may direct.

ARTICLE 10

UNCOVERING AND CORRECTING WORK

10.1 Uncovering Work Covered Contrary to Directions. If any of the Work is covered contrary to the request of Owner's Representative or the Architect, or contrary to any provision of the Contract Documents, said Work shall, if required by Owner's Representative, be uncovered for inspection and shall be properly replaced at Construction Manager's expense without change in the Substantial Completion Date or the GMP.

10.2 Option to Order Work Uncovered. If the Contract Documents permit the Work to be covered and neither Owner's Representative nor the Architect has requested that the Work not be covered, the Owner's Representative may nevertheless require that such Work be uncovered for inspection. If such Work conforms strictly with the Contract Documents, the cost of uncovering and proper replacement shall by Change Order be charged to Owner with an appropriate adjustment to the GMP and the Substantial Completion Date. If such Work does not strictly conform with the Contract Documents, Construction Manager shall pay the cost of uncovering and proper replacement without adjustment to the GMP or the Substantial Completion Date.

10.3 Correction of Defective Work. Construction Manager shall immediately proceed to correct Work rejected by Owner's Representative as defective or failing to conform to the Contract Documents, unless such Work is accepted in accordance with paragraph 10.6 below. Construction Manager shall bear all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections and any fees and expenses of the Architect made necessary thereby, without adjustment to the GMP or the Substantial Completion Date.

10.4 Correction For One Year Following Completion. If within one (1) year after Final Completion any of the Work is found to be defective or not in strict accordance with the Contract Documents, Construction Manager shall correct such Work promptly upon receipt of written notice from Owner. This obligation shall survive Final Payment by Owner and termination of this Agreement.

10.5 No Period of Limitation Established. Nothing contained in paragraph 10.4 shall establish any period of limitation with respect to Construction Manager's other obligations and warranties under the contract, including, without limitation, Article 3. Establishment of the one-year time period in paragraph 10.4 above relates only to Construction Manager's specific duty to correct or complete the Work.

10.6 Owner's Option to Accept Defective Work. Owner may, at its sole discretion, choose to accept defective or nonconforming Work. Such acceptance shall not be effective unless specifically and expressly stated in writing by Owner's Representative. In such event, the GMP shall be reduced by the reasonable costs of removing and correcting the defective or nonconforming Work, regardless of whether Final Payment has been made or the defective Work replaced or corrected the intent being that Owner may use such funds to remedy such defects at a time and in a manner convenient to Owner. If the unpaid portion of the GMP, if any, is insufficient to compensate Owner for the acceptance of defective or nonconforming Work, Construction Manager shall, upon written demand from Owner, pay Owner any shortfall of compensation for accepting defective or nonconforming Work.

ARTICLE 11

INSPECTIONS AND CERTIFICATIONS OF COMPLETION

11.1 Inspection of Work. Construction Manager shall, on a continuous basis as a part of its day-to-day supervision of the Project, inspect the Work to ensure that the quality, quantity and progress of the Work meets the requirements of the Contract Documents. In making such inspections, Construction Manager shall reject Work that is defective or deficient, take steps to avoid unexcused delays in the performance of the Work, and protect Owner from overpayment.

11.2 Standard of Construction and Identification of Defective Work. Construction Manager shall cause the Project to be constructed in strict compliance with the requirements of the Contract Documents and Applicable Laws. Construction Manager acknowledges that strict compliance is a more exacting standard than substantial compliance and Construction Manager agrees that its fee takes into consideration the more exacting standard. Owner will not accept Work which fails to comply with such standards, unless the departure from such standards is specifically identified to, and thereafter authorized in writing by, Owner's Representative. Unless so authorized by Owner's Representative, Construction Manager shall correct all Work that does not meet the requirements of the Contract Documents and Applicable Laws.

11.3 Equipment and Other Items. When instructed by Owner's Representative, Construction Manager shall schedule and perform factory testing and shop inspections of equipment, fixtures, furnishings, and other items. Such testing and inspections shall be performed at times appropriate to the stage of fabrication, construction, installation, and testing of such items. Construction Manager shall notify Owner's Representative prior to each such testing or inspection, and Architect and Owner's Representative or his designee shall be entitled to accompany Construction Manager for such testing and inspections.

11.4 Inspection Upon Arrival. During Installation. And After Installation. Upon arrival of any materials, supplies, systems, equipment, fixtures, furnishings, and other items at the Project site, whether procured by Construction Manager or Owner, Construction Manager shall inspect such items for damage, for compliance with the Contract Documents and for compliance with all shipping documents and shall arrange for the proper storage and security of such items. Construction Manager shall also provide for and monitor the proper and timely installation of all such items on the Project. After such items are installed or made ready for use, Construction Manager shall again inspect all such items for damage and shall arrange for and monitor testing of all such items for compliance with the Contract Documents and readiness for use on the Project. If damage is discovered, Construction Manager shall immediately notify, in writing, the supplier, shipper, and Owner's Representative of such damage and shall lodge and pursue all appropriate claims associated with such damages.

11.5 Punch Lists and Correction of Defective Work. Construction Manager shall, with the assistance of Owner, prepare and enforce punch lists and other itemizations of defective, deficient, or incomplete Work. Construction Manager shall report to Owner's Representative in its Monthly Reports its progress in correcting and completing such defective, deficient, or incomplete Work.

11.6 Construction Manager's Observation of Testing and Start-up. Construction Manager shall schedule (and notify Owner's Representative of such schedule), coordinate, and observe the testing and start-up of all utilities, systems, fixtures, and other equipment and shall report the results of same to Owner's Representative in writing.

11.7 Transfer of The Work and The Project to Owner. Construction Manager shall aid Owner in the transfer of the completed Project, and all portions thereof, to Owner. Such assistance shall include procuring certificates of ownership, titles and warranties, procuring keys to the Project, operations and maintenance manuals and instructions, procuring supplies, start-up of Project systems, transferring Project security, arranging for training Owner in the operation and maintenance of all systems and components of the Project, and such other matters as may relate to Owner's initial occupation, possession, and use of the Project or any part thereof.

11.8 Substantial Completion of The Project. When Construction Manager believes that Substantial Completion of the entire Project, or a designated part thereof, has been achieved, it shall notify Owner's Representative in writing and request an inspection for certification of Substantial Completion. Construction Manager shall thereafter meet on site with Owner's Representative to determine whether Substantial Completion of the Project, or the designated part thereof, has in fact been achieved. Construction Manager's written request for such inspection shall constitute a representation by Construction Manager to the Owner that Construction Manager has made all inspections of the Work required by the Contract Documents and that, to the best of Construction Manager's information and knowledge, the Work has been performed in strict compliance with, and the quality of the Work meets or exceeds the requirements of, the Contract Documents. If Owner's Representative agrees that Substantial Completion of the Project, or the designated part thereof, has been achieved, they shall execute a Certificate of Substantial Completion. If Owner's Representative, upon inspection, concludes that Substantial Completion has not been achieved and that re-inspection will be necessary, Construction Manager shall bear all costs of same.

11.9 Final Completion of The Project. When Construction Manager believes that Final Completion of the entire Project has been achieved, it shall notify Owner's Representative in writing and request an inspection for certification of Final Completion of the Project. Construction Manager shall thereafter meet on site with Owner's Representative to determine whether Final Completion of the Project has in fact been achieved. Construction Manager's request for such inspection shall constitute a representation by Construction Manager to Owner that Construction Manager has made all inspections of the Work as provided in the contract and that, to the best of Construction Manager's knowledge and belief, all the Work has been completed in strict compliance with the Contract Documents and that the quality of the Work meets or exceeds the requirements of the Contract Documents. If Owner's Representative agrees that Final Completion of the Project has been achieved, they shall execute a Certificate of Final Completion of the Project. If Owner's Representative, upon inspection, conclude that Final Completion has not been achieved and that re-inspection will be necessary, Construction Manager shall bear all costs of same.

ARTICLE 12

PROJECT DOCUMENTATION

12.1 Basic Project Documentation. Construction Manager shall maintain the following documents on behalf of and for the use of Owner:

- (a) a complete set of current Subcontracts and Contract Documents, including a current set of drawings, specifications, Change Orders and modifications reflecting product and materials selections and as-built conditions on the Project;
- (b) all shop drawings, samples, product data, and other Submittals;
- (c) a clean set of the principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations certified by a qualified surveyor or engineer;
- (d) all required insurance certificates from Subcontractors; and
- (e) all other documents required by this Agreement.

12.2 Daily Log. Construction Manager shall maintain a log of daily reports ("Daily Log") which shall identify daily weather conditions and any impact on the Work caused thereby, Construction Manager's personnel on site, all Subcontractors working each day and the number of employees of each on the Project, the Work accomplished each day, any equipment failures or breakdowns, any procurement or delivery problems, any job site accidents or injuries, any safety or environmental violations, warnings or citations, and any other events, circumstances, or occurrences impacting the progress or cost of the Project.

12.3 Monthly Reports. Each month Construction Manager shall prepare and submit to Owner's Representative a written report detailing the progress of the Project (the "Monthly Report"). The Monthly Report shall contain Construction Manager's estimate of percentage of completion of the Project and each element thereof, identify any

and all delays to the Project and the cause and extent thereof and describe the remedial measures being taken to overcome such delays, identify any defective or deficient Work installed during the preceding month and describe the remedial measures being taken to correct the defective or deficient Work, identify any outstanding requests for information or clarification, requests for Interpretation, change order requests, questions, or other matters requiring the response of either Owner, Construction Manager, Architect, or a Subcontractor and shall include any and all other information required to fully inform Owner of the status of the Project and the performance of Construction Manager, Architect, and Subcontractors. The Monthly Report shall include the Construction Schedule updates, updated cash flow forecasts, and updated comparisons of actual and estimated construction costs to the GMP and the Construction Cost Estimates as required by the terms of this Agreement.

12.4 Review and Assignment of Warranties. Construction Manager shall obtain and shall transmit to Owner's Representative all special product, system, equipment or material warranties required by the Contract Documents and the Subcontracts. Construction Manager shall review all such warranties to confirm that the warranties are in compliance with the requirements of the Contract Documents and Subcontracts. By execution of this Agreement, Construction Manager hereby assigns to Owner all of Construction Manager's rights, title and interest in and to any and all warranties, including Uniform Commercial Code warranties that Construction Manager receives or is entitled to receive from any Subcontractor or supplier in connection with the Project.

12.5 Operations and Maintenance Documentation. Construction Manager shall obtain and transmit to Owner's Representative all documentation required by the Contract Documents regarding the operation and recommended maintenance programs relating to the various elements of the Project. Such documentation shall be furnished to Owner's Representative in uniform three- ring binders labeled with the Project name and number.

12.6 Review and Approval of As-Built Drawings. Construction Manager shall provide as-built drawings and shall confirm to Owner that such drawings are adequate and complete and in compliance with the requirements of the Contract Documents.

12.7 Availability of Project-Related Records to Owner. All records relating directly or indirectly to the Project which are in the possession or control of Construction Manager shall be made available to Owner, its designee, and any governmental authority for audit, inspection, and copying upon request of Owner's Representative. Such records include, without limitation: all drawings, specifications, Submittals, subcontractor bids, the Daily Log, correspondence, the Request Log, the Submittal Log, minutes, memoranda, tape or videotape recordings, or other writings or things which document the Project, its design, and its construction.

12.8 Maintenance of Project-Related Records. Construction Manager shall maintain and protect all Project-related records, other than those required to be returned to Owner, for no less than six (6) years after Final Completion of the Project and for any longer period of time as may be required by law or good construction management practice.

12.9 Project Videotapes and Photographs. At any time requested by Owner's Representative, Construction Manager shall record periodic narrated videotapes or take photographs depicting progress of the Work. Any specific safety or environmental incidents are to be videotaped at the time of the incident without waiting for Owner authorization. All videotapes and photographs shall be submitted to Owner's Representative on a weekly basis.

ARTICLE 13

OWNER'S DUTIES, OBLIGATIONS, AND RESPONSIBILITIES

13.1 Provide Project Information. Owner shall provide Construction Manager with adequate information regarding Owner's requirements for the Project including any desired or required design or construction schedule, any budgetary

requirements, and an adequate number of complete sets of the Owner's program.

13.2 Review of Documents. Owner shall review any documents submitted by Construction Manager requiring Owner's decision and shall render any required decisions pertaining thereto.

13.3 Access to The Site and The Work. Owner shall provide Construction Manager access to the site and to the Work as necessary for Construction Manager to perform the requirements of the Contract Documents.

13.4 Assist Construction Manager to Secure Permits. Licenses. Approvals. And Authorizations. If necessary, Owner shall provide reasonable assistance to Construction Manager to enable Construction Manager to secure all necessary licenses, permits (other than building and other permits required for construction of the Project), approvals or other necessary authorizations of governmental authorities for the construction and operation of the Project. Construction Manager shall obtain and maintain all licenses, permits and other authorizations necessary to act as the construction manager/design-builder for the Project.

13.5 Timely Performance. Owner shall perform those duties set forth in this Article in a timely fashion so as to permit the orderly progress of Construction Manager's Services and the Work.

13.6 Owner's Reviews. Inspections. Approvals. And Payments. Owner's review, inspection, or approval of any design document, Work, or any documents prepared or submitted by Construction Manager shall be solely for the purpose of determining whether such Work and such documents are generally consistent with Owner's construction program and requirements, and Construction Manager understands that Owner is relying on Construction Manager to assure strict compliance with the Contract Documents. No review, inspection, or approval by Owner of such Work or documents shall relieve Construction Manager of its responsibility for the strict performance of its obligations under the Contract Documents or for the accuracy, adequacy, fitness, suitability, or coordination of its Services and work product. Approval by any governmental or other regulatory agency or other governing body of any Work, design document, or Subcontract shall not relieve Construction Manager of responsibility for the strict performance of its obligations under the Contract Documents. Payment by Owner shall not constitute a waiver of any of Owner's rights under the Contract Documents or at law, and Construction Manager expressly accepts the risk that defects in the Services or in the Work, if any, may not be discovered until after payment, including Final Payment, is made by Owner.

13.7 Non-Waiver. Owner's failure to exercise any right or remedy hereunder or to require strict compliance with any obligation of Construction Manager under the Contract Documents shall not constitute a waiver or an estoppel of the right to exercise such right or remedy or to insist on such compliance at any other time or on any other occasion.

13.8 Hazardous Materials. The Construction Manager is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Construction Manager encounters a hazardous material or substance that is not the responsibility of the Construction Manager as part of its Work and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to lead, asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Construction Manager, the Construction Manager shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

13.8.1 Upon receipt of the Construction Manager's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Construction Manager and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Construction Manager the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Construction Manager will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the

Owner. If the Construction Manager has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Construction Manager has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Construction Manager. By Change Order, the Contract Time shall be extended appropriately and the GMP shall be increased in the amount of the Construction Manager's reasonable additional costs of shut-down, delay and start-up.

13.8.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Construction Manager, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

13.8.3 The Owner shall not be responsible for materials or substances the Construction Manager brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Construction Manager's fault or negligence in the use and handling of such materials or substances.

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

ARTICLE 14

PAYMENT TO CONSTRUCTION MANAGER

14.1 Basis of Compensation. Owner shall pay, and Construction Manager shall accept, as full and complete compensation for Construction Manager's assumption and performance of all duties, obligations, Services and Work required by the Contract Documents, the combined sum of Design Phase Compensation plus Construction Phase Compensation, as defined herein; provided, however, that such combined sum shall not exceed the Guaranteed Maximum Price set forth in paragraph 14.2.

14.1.1 Design Phase Compensation. Owner shall pay Construction Manager "Design Phase Compensation" consisting of the fixed sum of Dollars (\$.00). This will be the total compensation due for all Work in the Design Phase. The Design Phase Compensation shall be deemed to include, without limitation, such items as overhead, profit and all expenses incurred in performance of the Design Phase Services; Construction Manager shall not be separately compensated any Reimbursable Expenses for the Design Phase, as such costs incurred as part of the Design Phase are intended to be fully compensated by the fixed sum stated above. The Design Phase Compensation shall be invoiced and paid in accordance with paragraphs 14.4 and 14.7; provided, however, that at no time shall the cumulative percentage of the Design Phase Compensation invoiced or paid exceed the cumulative percentage of completion of the Design Phase Services, such percentage of completion to be determined by the Architect.

14.1.2 RESERVED.

14.1.3 Construction Phase Compensation. For Construction Manager's performance of the Work and Services during the Construction Phase in strict conformance with the Contract Documents, and subject to the GMP, Owner shall pay Construction Manager "Construction Phase Compensation" consisting of: Subcontract Costs, plus Reimbursable Expenses incurred in performance of Construction Phase Services and the Work, plus the Construction Phase Fee, plus any expended Construction Manager's contingency (if any such contingency is

indicated in the calculation of the GMP). The Construction Phase Compensation shall be deemed to include, without limitation, such items as overhead, profit and all expenses incurred in performance of the Work and Services during the Construction Phase.

14.1.4 Construction Phase Fee. The "Construction Phase Fee" shall be percent (%) of the sum of:

(a) Subcontract Costs and

(b) Construction Manager's Reimbursable Expenses incurred in performance of Construction Phase Services and the Work. The Construction Phase Fee shall be invoiced and paid in accordance with paragraphs 14.4 and 14.7; provided, however, that at no time shall the cumulative percentage of the Construction Phase Fee invoiced or paid exceed the cumulative percentage of the Work actually complete, as measured against the Construction Manager's schedule of values and as certified by Architect.

14.2 Guaranteed Maximum Price. No later than the time specified in Section 5.4(H), Construction Manager shall submit to the Owner a proposed GMP. If and when accepted by Owner, and subject to the Construction Manager providing payment and performance bonds in accordance with Article 17, the proposed GMP shall become the GMP for the Project and shall be entered in subparagraph 14.2.1 herein and the Owner and the Construction Manager shall initial subparagraph 14.2.1. The GMP shall be the maximum amount that Construction Manager shall receive for achieving Final Completion in strict accordance with the Contract Documents and performance of all the Work and the Services required by the Contract Documents, including any and all amounts for any sub-phased Work as contemplated by Owner and Construction Manager in paragraph 7.1, and subject to additions and deductions by written Change Order. All Subcontract Costs, Reimbursable Expenses, or other costs of any kind incurred by Construction Manager in connection with the Project in excess of the GMP shall be paid by Construction Manager without reimbursement by Owner unless otherwise compensable by written Change Order pursuant to the Contract Documents. Should the combined sum of final Design Phase Compensation and Construction Phase Compensation be less than the GMP, the resulting savings shall be allocated 100% to the Owner.

14.2.1 Amount of the GMP. The amount of the GMP shall be [to be inserted by agreement to a GMP change order] (\$). Any and all allowances, unit prices, clarifications or limitations upon which the GMP is based are listed and identified on Exhibit "I" hereto.

14.2.2 Lack of Agreement On GMP. In the event Construction Manager and Owner do not agree, in writing, on a GMP pursuant to paragraph 14.2 above, not later than 30 days after the submission of such proposed GMP by the Construction Manager, Construction Manager's performance under this Agreement shall, without any action required by either party, automatically terminate unless otherwise directed in writing by the Owner in its sole discretion. In the event of such termination, Owner's liability to Construction Manager shall be limited to that portion of the Design Phase Fee actually earned up to the date of termination pursuant to this subparagraph 14.2.2; provided, however, that in no event shall the amount payable hereunder exceed the amount entered in subparagraph 14.1.1.

14.3 Schedule of Values. Construction Manager shall prepare and present to Owner's Representative within ten (10) days after commencement of the Construction Phase, a proposed schedule of values allocating all of the costs (which shall include all Subcontract Costs and Reimbursable Expenses to be incurred during the Construction Phase) among the different elements of the Work. The Construction Phase Fee and any contingencies shall be shown as separate items. Construction Manager's schedule of values shall be prepared in such form, with such detail, and supported by such data as the Architect or the owner's Representative may require substantiating its accuracy. Construction Manager shall not front-end load its schedule of values by balancing it or by increasing any element thereof in excess of the actual cost, and such acts shall constitute a material breach of this Agreement. Construction Manager's proposed schedule of values shall be used in determining the amounts payable to Construction Manager hereunder, but only after it has been acknowledged in writing by the Architect and the Owner's Representative. The schedule of values may be amended when so acknowledged in writing by Architect and Owner's Representative, as and when Subcontracts are awarded and reasonable schedules of values in connection with such Subcontracts are received and agreed upon by Construction Manager as provided by paragraph 9.5.

14.4 Form of Pay Requests and Backup Documentation. As soon as practicable after the last business day of each month, Construction Manager shall submit a notarized invoice to Owner's Representative requesting payment ("Pay Request) for ninety percent (90%) of the Reimbursable Expenses and Subcontract Costs actually and reasonably incurred by Construction Manager and that portion of the Design Phase Fee, the Construction Phase Fee, or, if applicable, both, earned by Construction Manager, in the performance of Services and the Work during the preceding month. Any payment on account of stored materials or equipment will be subject to the Construction Manager providing written proof that the Owner has title to such materials or equipment and that they are suitably stored at the Project site and fully insured against loss or damages. Moreover, any sums approved for stored materials shall be at actual costs and shall not include markup by Subcontractors or subcontractors or Construction Manager's Fees. As used in the immediately preceding sentence, actual costs means costs charged by the manufacturer or the distributor for the manufacturer and the Pay Request shall include copies of invoices from the manufacturer or the distributor. Upon payment of fifty percent (50%) of the GMP, as it may be adjusted, and satisfactory, timely completion of fifty percent (50%) of the Work, as certified by Architect, Owner shall not retain additional retainage and Construction Manager's Pay Requests may thereafter request payment for one hundred percent (100%) of Reimbursable Expenses and Subcontract Costs incurred, and Fees earned, during the pay period; provided, however, that if, after discontinuing such retainage, Owner's Representative determines that the Work is unsatisfactory or has fallen behind schedule, Owner may resume withholding retainage at the previous level. At no time shall the cumulative sum invoiced or paid exceed an amount equal to the sum of: (i) the product of that portion of the GMP attributable solely to Design Phase Compensation multiplied by the cumulative percentage of completion of the Design for Construction, such percentage of completion to be determined by the Owner's Representative; plus; (ii) the product of that portion of the GMP attributable solely to Construction Phase Compensation multiplied by the cumulative percentage of the Work actually and satisfactorily complete, such percentage of completion to be measured against the Construction Manager's schedule of values and as certified by the Construction Manager. Each Pay Request shall separately show the amounts of Construction Manager's Design Phase Fee and Construction Phase Fee being claimed in connection with such Pay Request and any amounts claimed in connection with a Change Order. Pay Requests shall also indicate Construction Manager's estimate of the percentage of completion of the Project and each element thereof according to the line items established in the schedule of values. Unless otherwise directed by Owner's Representative, Pay Requests shall be submitted in triplicate, bearing the appropriate job numbers designated by Owner's Representative, to Owner's Representative for approval. Pay Requests shall be in such form and accompanied by such documentation, including documentation in support of Subcontract Costs and Reimbursable Expenses, if any, as Architect or Owner's Representative may require. Pay Requests and supporting documentation shall describe with reasonable particularity each Service rendered, the date thereof, the time expended in performing such Service, and the persons rendering such Service. Upon Architect or Owner's Representative's request, Construction Manager shall submit certified time sheets relating to such persons who have performed Services on the Project. All documents and records in the possession of Construction Manager and its Subcontractors relating to Reimbursable Expenses and Subcontract Costs shall be made available to Owner or its designee for audit, inspection and copying immediately upon request by Owner's Representative. Strict compliance with the requirements of this paragraph 14.4 shall be a condition precedent to any payment, including Final Payment, under this Agreement.

14.5 Claim Releases and Verified List of Subcontractors. If requested by Owner, in Owner's sole discretion, each Pay Request shall be accompanied by Construction Manager's and Subcontractors' partial waivers of claim in the form attached hereto as Exhibit "D" for the full amount of the payments made through the date of the Pay Request and to be made under the current Pay Request and the Work covered thereby. Provision of such waivers of claim, when requested by Owner, shall be a condition precedent to Owner's duty to make payments to Construction Manager. Construction Manager's application for Final Payment shall be accompanied by final waivers of claim from Construction Manager and all Subcontractors in the form attached hereto as Exhibit "E" together with a verified list of all Subcontractors, including suppliers of materials and systems incorporated into the Work. Provision of such final waivers of claim and verified list shall be a condition precedent to Final Payment to Construction Manager.

14.6 Certification Relating to Pay Requests. Each Pay Request shall bear the signature of Construction Manager's project manager, which signature shall constitute Construction Manager's representation to Owner that the Services

and the Work indicated in the Pay Request have progressed to the level represented, have been properly and timely performed as required herein, that no Work has been covered contrary to the request of the Owner's Representative or contrary to any provision of the Contract Documents, that the Reimbursable Expenses and Subcontract Costs claimed in the Pay Request have been actually, necessarily, and reasonably incurred, that all obligations of Construction Manager covered by prior Pay Requests have been paid in full, and that, to the best of Construction Manager's knowledge, information and informed belief, the amount requested is currently due and owing, there being no reason known to Construction Manager that payment of any portion thereof should be withheld.

Submission of Construction Manager's Pay Request for Final Payment shall further constitute Construction Manager's representation to Owner that, upon receipt from Owner of the amount requested, all obligations of Construction Manager to others incurred in connection with the Project will be paid in full within seven (7) days of such receipt. In the event that Owner becomes informed that any of the foregoing representations by Construction Manager are wholly or partially inaccurate, Owner may withhold payment of sums then or in the future otherwise due to Construction Manager until the inaccuracy, and the cause thereof, is corrected to Owner's reasonable satisfaction.

14.7 Payment of Pay Requests. Subject to the limits imposed by the GMP and other terms and conditions of the Contract Documents, and within 30 days of approval of Construction Manager's Pay Request by Owner and in no event later than 45 days after receipt of the Pay Request, Owner shall make payment to Construction Manager of all sums properly requested under the provisions of this Article and payable under the terms of this Agreement, provided that the Pay Request is in proper order and is supported by all required documentation. If the Pay Request is not in proper order or is not supported by all required documentation, then Owner's Representative, or the Architect, shall notify Construction Manager of such deficiency and the time for payment of such Pay Request, or any applicable part thereof, shall be extended by the amount of time required to cure such deficiencies.

14.7.1 When payment is received from Owner, the Construction Manager shall immediately pay or cause to be paid all Subcontractors, subcontractors, materialmen, laborers and suppliers the amounts they are due for the Work covered by such payment. In the event the Owner becomes informed that the Construction Manager has not paid, or caused to be paid, a Subcontractor, subcontractor, materialman, laborer, or supplier as provided herein, the Owner shall have the right, but not the duty, to issue future checks and payment to the Construction Manager of amounts otherwise due hereunder naming the Construction Manager and any such Subcontractor, subcontractor, materialman, laborer, or supplier as joint payees. Such joint check procedure, if employed by the Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the Owner to repeat the procedure in the future.

14.8 Payment at Substantial Completion. Subject to the limitations of the GMP, and provided that all conditions precedent have been satisfied, within thirty (30) days after execution of the Certificate of Substantial Completion of the Project, Owner shall pay Construction Manager all sums due Construction Manager, including retainage, less any amounts attributable to liquidated damages, and less two hundred percent (200%) of the reasonable cost for completing all incomplete Work, correcting and bringing into conformance all defective and nonconforming Work, and handling all unsettled claims. As a condition precedent to such payment, however, Construction Manager shall deliver to Owner's Representative the final complete set of as-built drawings in the form of marked-up blue-line drawings, all required releases of claim, all certificates of occupancy or similar documents required for the occupation and use of the Project for its intended purposes, all required warranties, all Project Documentation as described in Article 12 herein, and consent(s) of surety to release retainage in form and manner acceptable to Owner together with an original current power of attorney with current certificate attached thereto.

14.9 Payment at Final Completion. Subject to the limitations of the GMP, and provided that all conditions precedent have been satisfied, within thirty (30) days after execution of the Certificate of Final Completion of the Project, Owner shall pay Construction Manager all unpaid sums due Construction Manager under this Agreement, less any amount properly withheld pursuant to this Agreement ("Final Payment"). Construction Manager's acceptance of Final Payment

shall constitute an unconditional waiver and release of all claims by Construction Manager for additional compensation beyond that provided in the Final Payment. Final Payment by Owner shall not, however, constitute a waiver by Owner of its rights or claims arising from Construction Manager's failure to perform in strict accordance with the requirements of the Contract Documents. As a condition precedent to Final Payment, Construction Manager shall deliver to Owner's Representative consent(s) of surety to final payment in form and manner acceptable to Owner together with an original current power of attorney with current certificate attached thereto.

14.10 Withholding of Payment. Any provision of the Contract Documents notwithstanding, Owner shall not be obligated to make a payment or payments to Construction Manager which is otherwise due, if, and for so long as, any one or more of the conditions set forth in this paragraph 14.10 exists.

14.10.1 Construction Manager's Pay Request is not in the form or supported by the documentation required by this Agreement.

14.10.2 Construction Manager is in default of any of its obligations under the Contract Documents.

14.10.3 Any part of such payment is attributable to Services or Work which are defective or not strictly conforming with the requirements of the Contract Documents; provided, however, that payment shall be made as to the part thereof attributable to Services or Work which are rendered or performed in strict accordance with the Contract Documents and are not defective, subject to other provisions hereof.

14.10.4 Construction Manager has failed to make payments promptly to its Subcontractors, consultants, employees, or others performing Services in connection with the Project or any person has filed a claim that Construction Manager has failed to make payments due to such person.

14.10.5 Any person has asserted a claim against Owner in whole or in part on account of alleged acts or omissions of Construction Manager.

14.10.6 Evidence that the balance of the Work cannot be completed in accordance with the Contract Documents for the unpaid balance of the GMP.

14.10.7 Failure or refusal by Construction Manager to perform the Work in accordance with the Contract Documents.

14.10.8 Damage caused by the Construction Manager or caused by a person or entity for which the Construction Manager is legally or contractually responsible, to Owner or to a third-party to whom Owner is, or may be, liable.

14.10.9 Any situation or condition exists which, as set forth elsewhere herein or in the Contract Documents, justifies the withholding of payments. In the event that any of the foregoing conditions exist, Owner shall be entitled to withhold from any sum then due or thereafter to become due, including from retained sums, an amount sufficient in the sole judgment of Owner's Representative to satisfy, discharge, and defend against such claims and to make good any losses, prospective losses, costs, attorneys' fees, and other expenses which may result from the existence of such conditions.

14.11 Disputed Pay Requests. In the event Owner's Representative or the Architect disagrees with or questions all or any portion of any Pay Request, the amount due to Construction Manager, or the sufficiency of the information and documentation submitted by Construction Manager, Owner's Representative shall notify Construction Manager in writing and Owner shall pay the undisputed parts of such Pay Request. If Owner's Representative and Construction Manager are able to agree on the amount due under the disputed part of any Pay Request, payment will be made to Construction Manager within the time provided by paragraph 14.7 of this Agreement or ten (10) days after receipt of a new Pay Request representing the agreed amount, whichever is later.

14.12 Conditions Precedent to Payment. In addition to all other conditions contained herein, it shall be a condition precedent to any payment otherwise due hereunder that: (a) Construction Manager not be in material breach of this Agreement or in breach of any warranty made therein; (b) Construction Manager have submitted all monthly updated Construction Schedules, Monthly Reports, and Project cost summaries required by this Agreement; and (c) Construction Manager have submitted its Pay Requests and backup documentation in the time, form, and manner

required by this Agreement.

14.13 Non-Waiver of Claims for Defective Work. Neither entrance, inspection nor use of the Project by Owner, Architect, or their representatives nor any payment (whether final or otherwise) made by Owner shall be construed as an acceptance of defective or nonconforming Work nor shall such entrance, inspection, use, or payment release Construction Manager from any of its obligations under the Contract Documents.

ARTICLE 15

CHANGE ORDERS

15.1 Authority to Order Changes. Owner may by written Change Order, and without affecting the validity or enforceability of this Agreement, direct changes in the Work and the Services within the general scope of the Contract Documents, including changes, additions, deletions, modifications, and revisions thereto, or changes to the time for the Construction Manager's performance, or any combination thereof. Construction Manager shall promptly proceed, and cause all Subcontractors to proceed, with the performance of the Services and the Work in accordance with Owner's direction, and failure to agree on the terms of a Change Order shall not excuse Construction Manager from continued performance of the Services or the Work in an expeditious fashion or from proceeding with any directed change.

15.2 Adjustments to Construction Manager's Compensation. GMP And Contract Time Only by Change Order. Changes in the Work, Construction Manager's compensation, adjustments to the GMP, and extensions of time for the performance of this Agreement may only be made by a Change Order issued in accordance with the terms of this Article. Owner shall not be responsible for any change in the Work involving extra cost unless approval in writing is furnished by Owner before such Work is begun. Owner's Representative does not have authority to order changes in the Work that involve changes in cost or time.

15.3 Adjustments to Construction Manager's Compensation And GMP. If there is a change in the scope of the Work or the scope of Services required of Construction Manager under the Contract Documents, which change increases Construction Manager's cost of performance, or if Construction Manager submits a claim for additional compensation or adjustment to the GMP pursuant to paragraph 16.2, then, subject to the terms and conditions of this Agreement and Owner's approval of Construction Manager's claim, Construction Manager's compensation and the GMP shall be adjusted by a Change Order; provided, however, that no upward adjustment shall be made if the change in the scope of the Work or Services, or the basis of the claim for additional compensation or adjustment to the GMP, is caused by the fault, in whole or in part, of Construction Manager, a Subcontractor, or anyone for whom they are, or may be, responsible. As conditions precedent to any increase to Construction Manager's compensation or the GMP, Construction Manager shall: (a) give Owner's Representative written notice within seven (7) days after the occurrence of the event or commencement of the condition giving rise to the claim for additional compensation and adjustment to the GMP, (b) not later than ten (10) days after the date of such notice, submit to Owner's Representative Construction Manager's documented claim for additional compensation and adjustment to the GMP, (c) make available to Owner all pertinent Information requested by Owner's Representative relating to such claim, and (d) otherwise comply with the terms and conditions of Article 16 of this Agreement. The failure of Construction Manager to satisfy any of the foregoing conditions precedent shall constitute a waiver by Construction Manager of any entitlement to an increase in Construction Manager's compensation or the GMP. If a change in the scope of the Work or Services reduces Construction Manager's cost of performance, then the GMP, and the Design Phase Fee or the Construction Phase Fee, or, if applicable, both, shall be decreased accordingly. Subject to subparagraphs 15.3.1 and 15.3.2: (i) in the event of a change to the Construction Phase Work, the amount of any adjustment to the GMP, up or down, shall be an amount equal to: (a) the actual, reasonable Subcontract Costs and Reimbursable Expenses incurred or saved by Construction Manager on account of the change; and (b) an adjustment, up or down, to the Construction Phase Fee, calculated by multiplying the amount in part (a) by the percentage specified in Section 14.1.4. Notwithstanding the definitions of

Reimbursable Expenses and Subcontract Costs contained elsewhere in this Agreement, for purposes of calculating the actual, reasonable Subcontract Costs and Reimbursable Expenses saved by Construction Manager on account of a change, the savings achieved shall be deemed to include amounts that would be Reimbursable Expenses or Subcontract Costs if incurred or paid, even though such amounts are not incurred or paid.

15.3.1 As used in paragraph 15.3, the actual, reasonable Subcontract Costs incurred or saved by Construction Manager on account of a change shall be established on the basis of, and shall be limited to, the reasonable actual costs incurred or savings achieved, as defined below, by Subcontractors resulting from the change, plus a component for direct jobsite overhead and profit, as set forth below, but shall not include home office overhead or other indirect cost or components. The overhead and profit component for Subcontractors shall be five percent (5%); provided, however, that the foregoing five percent (5%) overhead and profit component for Subcontractors is intended to cover all Subcontractors and subcontractors of any tier, and there shall be no additional overhead and profit component for subcontractors below first-tier Subcontractors of the Construction Manager. Any such costs or savings shall be documented in the format, and with such content and detail, as the Owner or the Architect require.

15.3.2 As used in subparagraph 15.3.1, reasonable actual costs incurred or savings achieved means, and shall be limited to, the following:

- (i) Actual, reasonable costs of materials and the use of heavy construction equipment
- (ii) Actual, reasonable costs of supervision and labor, plus, solely as applicable thereto, social security, unemployment insurance, fringe benefits required by agreement or custom, and worker's compensation insurance;
- (iii) Actual, reasonable rental costs of machinery and equipment (exclusive of small tools or hand tools) whether rented from Construction Manager or others; and
- (iv) Actual, reasonable costs of premiums for bonds, permit fees, and sales, use or other taxes related to the Work.

All costs not set forth in the immediately preceding subsections (i) through (iv) shall be considered as overhead, including without limitation insurance other than that set forth above, travel (including transportation, meals and lodging), administrative staff, watchmen, hand tools, small power tools, incidental job burdens, engineering, drafting, and office expense (including costs of preparing Change Order proposal estimates). In no event shall any costs or savings associated with home office overhead or other indirect costs be considered to be actual costs incurred or savings achieved resulting from a Change Order and compensation for additional Work or Services shall be limited strictly as set forth herein.

15.4 Payment. Requests for payment for performance of Services and Work pursuant to a Change Order shall be made in accordance with paragraph 14.4, and payment shall be subject to the provisions of Article 14. The Construction Manager shall continue to diligently perform the Work and Services, including any change directed by the Owner by Change Order, and shall keep thorough records of the cost of performance of such Change Order consistent with and in accordance with the provisions of paragraph 15.3 above. Pending final determination of the amount of any adjustment to the Construction Manager's compensation or the GMP, payments on account shall be made to Construction Manager in accordance with paragraph 15.3 above and Article 14 of this Agreement.

15.5 Extensions of Time. Any extension of the time for the Construction Manager's performance requested by Construction Manager for performance of any change ordered by Owner may be granted by mutual agreement and then set forth in the Change Order. Otherwise, extensions of the time for the Construction Manager's performance shall be requested by Construction Manager pursuant to the terms and conditions of Article 16 of this Agreement and any such request for extension of time shall be subject to paragraph 15.6 of this Agreement. The failure of Construction Manager to provide notice in writing to Owner in accordance with Article 16 of this Agreement of any request for extension of time, or the Construction Manager's execution of a Change Order, shall constitute a waiver by Construction Manager of any entitlement to an extension of time arising out of or relating to such Change Order.

15.6 Change Orders Final. The execution of a Change Order by Construction Manager shall constitute conclusive evidence of Construction Manager's agreement to the ordered changes in the Work, the Contract Documents as thus amended, Construction Manager's compensation, the GMP and the Substantial Completion Date. Construction Manager, by executing the Change Order, waives and forever releases any claim against Owner for additional time or compensation for matters in any manner relating to, arising out of or resulting from the executed Change Order. Any additional Work performed by Construction Manager or Subcontractors without prior written authorization by Owner shall be performed at the sole risk and expense of Construction Manager.

15.7 Surety Consent. The Construction Manager shall notify and obtain the consent and approval of the Construction Manager's Surety with reference to all Change Orders if such notice, consent or approval are required by the Owner, the Architect, the Construction Manager's Surety or by law. The Construction Manager's execution of the Change Order shall constitute the Construction Manager's warranty to the Owner that the Surety has been notified of, and consents to, such Change Order and the Surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

ARTICLE 16

CLAIMS BY CONSTRUCTION MANAGER

16.1 Generally. All claims against Owner shall be initiated by a written claim submitted by Construction Manager to Owner's Representative. Such claims shall be submitted to, and received by, Owner's Representative not later than seven (7) days after the event, or the first appearance of the circumstances or conditions, giving rise to the claim, and same shall set forth in detail all known facts supporting the claim, including the amount claimed. Construction Manager and Owner shall continue their performance under this Agreement regardless of the existence of any claims submitted by Construction Manager.

16.2 Claims for Additional Compensation. In the event Construction Manager seeks to make a claim for an increase in its compensation, or an adjustment to the GMP, or both, then as a condition precedent to any liability of Owner therefor, Construction Manager shall strictly comply with the requirements of paragraph 16.1 and such claim shall be made by Construction Manager before proceeding to execute any additional or changed work. Failure to satisfy this condition precedent shall constitute a waiver by Construction Manager of any claim for additional compensation. Any liability of Owner for additional costs to Construction Manager shall be strictly limited to actual and reasonable direct costs incurred by Construction Manager and shall in no event include indirect costs or consequential damages of Construction Manager or others. Absent a Change Order, Owner shall not be liable to Construction Manager for claims of third parties, including Subcontractors, unless and until liability of the Owner has been established therefor in a court of competent jurisdiction. No change in Construction Manager's compensation, nor adjustment of the GMP, shall be made except by Change Order issued in accordance with the terms of this Agreement.

16.3 Separate Records. Upon discovering an event or condition forming the basis of a claim for an increase in the Construction Manager's compensation or the GMP or an extension of the time for Construction Manager's performance, Construction Manager shall, until the claim is resolved, commence to maintain separate records evidencing all costs and delays incurred in connection with the event or condition forming the basis for the claim.

16.4 Formal Written Claim. No later than ten (10) days after the date of the written notice of claim, Construction Manager shall submit a formal written claim which shall include at least the following information:

- (1) a concise statement of the occurrence(s) supporting the claim;
- (2) identification of the facts giving rise to the claim;
- (3) the date Construction Manager discovered the occurrence(s);
- (4) a detailed schedule of values identifying all costs resulting from the claim;
- (5) documentation supporting

the schedule of values;

(6) identification of any impact the claim has on the critical path schedule; and

(7) all correspondence, internal memoranda, progress notes, and other documentation relating to the events which form the basis of the claim. In the event the claim relates to a Change Order, Construction Manager's formal written claim shall also include Construction Manager's good faith estimate of the change in the Construction Manager's compensation or the GMP, the time for the Construction Manager's performance, or any combination thereof as applicable, determined in accordance with Article 15 in respect of the Change Order. Other information or documents shall be submitted to Owner and Architect within ten (10) days after written request by Owner or Architect. The failure to provide a claim as set forth herein, or the failure to provide such other documents or information requested by Owner or Architect within ten (10) days after the written request, shall constitute a waiver of any claim for additional compensation or time extension related thereto.

16.4.1 Construction Manager shall provide, and continue to provide, to Owner all such documentation, including cost and time records, as and when Owner or Architect may request so that Owner may evaluate Construction Manager's claim.

16.5 Extensions of Time. Subject to the restrictions in 16.5.1 and 16.5.2, in the event the Construction Manager is delayed in performing any task which at the time of the delay is then critical, or which during the delay becomes critical, as the sole result of: (i) any act or omission by the Owner or someone acting in the Owner's behalf, (ii) any Owner-authorized Change Order, (iii) acts of God, (iv) Weather Delay Days as defined in Section 16.7, (v) any order of a governmental authority having jurisdiction over the Project which order is issued through no fault of the Construction Manager, (vi) acts of war, (vii) acts of terrorism, or (viii) for concealed or unknown conditions as provided in paragraph 16.6, then the Substantial Completion Date, or as applicable, the date for Final Completion and (except in the case of Weather Delay Days) Construction Manager's compensation and the GMP, shall be appropriately adjusted by the Owner upon the written notice and claim of the Construction Manager to the Owner and the Architect for such reasonable time as Owner may determine. A task is critical within the meaning of this paragraph 16.5 if, and only if, said task is on the critical path of the Project schedule so that a delay in performing such task will delay the ultimate completion of the Project. Any claim for an extension of time by the Construction Manager shall strictly comply with the requirements of paragraph 16.1 above and such notice shall be given by Construction Manager before proceeding to execute any additional or changed Work. If the Construction Manager fails to make such claim as required in this paragraph 16.5, any claim for an extension of time shall be waived.

16.5.1 The Construction Manager agrees that the Work shall be prosecuted regularly, diligently, and without interruption at such rate of progress as will ensure full completion thereof within the time required by the Contract Documents. It is expressly understood and agreed that the Construction Manager has considered all contingencies and factors affecting its ability to perform all the Work within this time, including without limitation, delays caused by any fact or condition other than those expressly set forth in clauses (i) through (viii) of paragraph 16.5, and after consideration of all such contingencies and factors, Construction Manager has made an allowance for such contingencies and factors before agreeing to the time for completion specified in the Contract Documents, and does further agree that all things considered, such time for completion is a reasonable time for completion of all Work to be performed hereunder, without the need for any extension of time for any reasons other than those expressly set forth in clauses (i) through (vii) of paragraph 16.5.

16.5.2 No change in the Construction Manager's compensation or the GMP shall be due because of weather. Extensions of substantial and final completion dates due to Weather Delay Days will be granted in accordance with Sections 16.5 and 16.7.

16.6 Claims for Concealed or Unknown Conditions. In the event the Construction Manager discovers previously concealed and unknown site conditions which are materially at variance from those typically and ordinarily encountered in the general geographical location of the Project, the Construction Manager's compensation and the GMP shall be modified, either upward or downward, upon the written claim made by either party within seven (7)

calendar days after the first appearance to such party of the circumstances. As a condition precedent to the Owner having any liability to the Construction Manager due to concealed and unknown conditions, the Construction Manager must give the Owner and the Architect written notice of, and an opportunity to observe, such condition prior to disturbing it. The failure by the Construction Manager to give the written notice and make the claim as provided by this paragraph 16.6 shall constitute a waiver by the Construction Manager of any rights arising out of or relating to such concealed and unknown condition.

16.7 Weather Delays

16.7.1 Standard Baseline for Average Climatic Range

A. The Owner has reviewed weather data available from the National Oceanic and Atmospheric Administration and determined a Standard Baseline of average climatic range for the State of Florida.

B. Standard Baseline shall be regarded as the normal and anticipatable number of calendar days for each month during which construction activity shall be expected to be prevented and suspended by cause of adverse weather. Suspension of construction activity for the number of days each month as listed in the Standard Baseline is included in the Work and is not eligible for extension of Contract Time. Saturdays and Sundays are eligible workdays.

C. Standard Baseline is as follows:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
4	5	6	4	3	2	2	2	2	2	2	3

16.7.2 Adverse Weather And Weather Delay Days

A. Adverse Weather is defined as the occurrence of one or more of the following conditions which prevents exterior construction activity or access to the site within 24 hours as determined by the Owner:

1. Precipitation (rain, snow, or ice) in excess of 0.10" liquid measure.
2. Temperatures which do not rise above 32 degrees F by 10:00 a.m.
3. Temperatures which do not rise above that specified for the day's construction activity by 10:00 a.m., if any are specified.
4. Sustained wind in excess of 25 m.p.h.
5. Standing snow in excess 1".

B. Adverse Weather may include, if appropriate, "dry-out" or "mud" days:

1. For rain days above the standard baseline.
2. Only if there is a hindrance to site access or sitework, such as excavation, backfill, and footings.
3. At a rate no greater than 1 make-up for each day or consecutive days of rain beyond the standard baseline that total 1" or more, liquid measure, unless specifically recommended otherwise by the Engineer.

C. A Weather Delay Day may be counted if Adverse Weather prevents work on the Project for 50% or more of the Contractor's scheduled workday, including a weekend day or holiday if Contractor has scheduled construction activity that day.

D. Contractor shall submit requests for extension of contract completion time due to Weather Delay Days in accordance with Section 16.5.

ARTICLE 17

PAYMENT AND PERFORMANCE BONDS

Before the GMP is deemed finally accepted by Owner, Construction Manager shall provide separate payment and performance bonds to Owner. Each of the bonds shall include a penal sum in the amount of one hundred percent

(100%) of the GMP. In the event the GMP is increased, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Construction Manager shall be in the exact form provided at Exhibit M and Exhibit N of this Agreement, and shall be executed by a surety, or sureties, licensed in the State of Florida by the Office of Commissioner of Insurance, rated A- or better by A.M. Best Company, listed on the United States Department of Treasury's Listing of Approved Sureties (Treasury Department Circular 570) as a surety authorized to write bonds for the U.S. Government with a total underwriting limitation equal to or greater than the penal sum of the bonds as adjusted from time to time, and not otherwise reasonably objectionable to the Owner. Construction Manager's surety(ies) shall be deemed to have waived notice of, and to have consented to, changes to the Contract Documents, including changes in: (a) the time for performing the Services and the Work and payment of compensation to Construction Manager hereunder; (b) the sums payable under this Agreement; and (c) the Work and Services to be performed. The Contract Documents shall be incorporated by reference into each of the bonds.

ARTICLE 18

CONSTRUCTION MANAGER'S PERSONNEL AND SUBCONTRACTORS

18.1 Personnel. Construction Manager shall assign only qualified personnel to perform the Services. At the time of execution of this Agreement, the parties anticipate that the individuals named in Exhibit "F," attached hereto, will perform those functions indicated. So long as the individuals named in Exhibit "F" remain actively employed or retained by Construction Manager or its affiliates or subsidiaries, and Owner does not require removal as provided in paragraph 18.2, they shall perform the functions indicated next to their names. Construction Manager shall not remove or substitute such personnel without Owner's Representative's written approval, which shall not be unreasonably withheld.

18.2 Removal of Personnel and Subcontractors. If, at any time during the course of the Project, Owner's Representative reasonably determines that the performance of any member of Construction Manager's staff or any of Construction Manager's Subcontractors or consultants working on the Project is unsatisfactory, Owner's Representative may, in writing, require Construction Manager to remove such staff member or terminate such Subcontractor or consultant from the Project immediately and replace the staff member, Subcontractor or consultant at no cost to Owner, including those resulting from delay or inefficiency the change may cause.

18.3 Employment Taxes. Construction Manager shall be responsible for payment of all unemployment compensation, social security, and other similar taxes and benefits covering its employees.

ARTICLE 19

OWNERSHIP OF DOCUMENTS

All Contract Documents, as well as information and items provided by Owner to Construction Manager to facilitate Construction Manager's performance hereunder, shall remain the exclusive property of Owner, and all such documents, information, and items, including all copies thereof, shall be returned to Owner's Representative upon Final Completion and as a condition precedent to Final Payment; provided that Construction Manager may retain one copy of same for record purposes only.

ARTICLE 20

INDEMNITY

20.1 General Indemnity. To the fullest extent permitted by law, and subject to the exception in 20.2, the Construction Manager shall indemnify and hold harmless Owner and its elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, if caused by the Construction Manager, or anyone for whose acts the Construction Manager may be liable, regardless of whether such liability, claim, damage, loss, cost or expense is caused in part by the Owner.

20.2 Indemnity for Architectural and Engineering Services. Section 20.1 shall not apply to claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability that are in connection with or collateral to the portion of the Services that are engineering or architectural services. As to the portion of the Services that are exempted from Section 20.1, the Construction Manager shall indemnify, and hold harmless the Owner and its elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including, but not limited to, attorney's fees and costs of defense, to the extent caused by or resulting from the negligence, recklessness, or intentionally wrongful conduct of the Construction Manager or other persons employed or utilized by the Construction Manager in performance under this Agreement.

20.3 Enforcement of This Agreement. In the event Owner retains legal counsel to secure performance by Construction Manager of any of its obligations under this Agreement, or if Owner retains or utilizes such counsel to represent its interest with respect to any matter for which Construction Manager has an indemnity obligation to Owner under any provision of this Agreement or otherwise, Construction Manager shall pay and reimburse Owner for the cost of such counsel and shall further pay and reimburse Owner for any and all other cost and expense incurred in preparing, negotiating, or prosecuting any claim against Construction Manager, including, but not limited to, any and all expert witness fees and expenses.

20.4 Limitation of Liability. The Construction Manager and Owner waive claims against each other for indirect and consequential damages arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all indirect or consequential damages due to either party's termination. Nothing contained in this section shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

ARTICLE 21

INSURANCE

The Construction Manager shall have and maintain insurance in accordance with the requirements of Exhibit "G" attached hereto and incorporated herein by reference.

ARTICLE 22

SUSPENSION

22.1 Suspension of Work. Owner may for any reason whatsoever suspend, in whole or in part, performance of the

Work and Construction Manager's performance under this Agreement. Owner's Representative shall give written notice of such suspension to Construction Manager specifying when such suspension is to become effective and the scope of the Work and the Services affected by such suspension. Unless the circumstances causing a suspension of the Work require a shorter time period, then such suspension shall become effective five (5) days after the date of the Owner's Representative's written notice of such suspension to Construction Manager. If the circumstances causing a suspension of the Work require a shorter time period, then the Owner's Representative's written notice of such suspension to Construction Manager shall include the date and time when such suspension shall become effective and the reason(s) therefor.

22.2 **Ceasing Performance Upon Suspension.** From and upon the effective date of any suspension ordered by Owner, Construction Manager shall not incur, nor permit any Subcontractor to incur, any further expense or obligations in connection with the suspended portion of the Work or the Services. From and upon the effective date of any suspension ordered by Owner, Construction Manager shall cease performing under this Agreement, and shall cause all Subcontractors to cease performing, in connection with the suspended portion of the Work or the Services and shall utilize its best efforts to mitigate its costs resulting from the suspension.

22.3 **Resumption of Work After Suspension.** If Owner lifts the suspension it shall do so in writing signed by Owner's Representative, and Construction Manager shall promptly resume, and shall cause Subcontractors to resume, performance of the Services and the Work, unless, prior to receiving the notice to resume, Construction Manager has exercised its right of termination as provided in paragraph 23.8 herein.

22.4 **Claim for Costs of Suspension.** Within twenty (20) days after either the resumption of the suspended portion of the Work or Services or the termination of this Agreement by Construction Manager pursuant to paragraph 23.8, Construction Manager shall submit an itemization of the following cost items reasonably and necessarily expended by Construction Manager as a direct result of the suspension, together with pricing or other data required by Owner's Representative:

- (a) salaries of Construction Manager's home or branch office employees, or both, but only to the extent that such employees were directly impacted by said suspension;
- (b) salaries of Construction Manager's field employees, costs of construction tools, equipment, and field office costs; and
- (c) Subcontract Costs reasonably and unavoidably incurred on account of the suspension; and
- (d) any other items directly related to the suspended part of the Services or the Work. Construction Manager's failure to provide such itemized information within such twenty (20) daytime period shall constitute a waiver of any claim to compensation relating to the suspension of Construction Manager's work under this Agreement. Owner shall promptly review Construction Manager's itemization and shall issue a Change Order providing for payment to Construction Manager of such amounts, and only such amounts, listed above as may be due on account of the suspension and increasing the GMP by like amount. In no event shall Construction Manager be entitled to lost profits, other consequential damages, or any items of damage related to or resulting from a suspension of the Services or of the Work except for those items enumerated in this paragraph 22.4.

ARTICLE 23

TERMINATION

23.1 **Termination for Convenience.** Owner may for any reason whatsoever terminate performance of the Services, the Work, this Agreement, or any part of any of them, for Owner's convenience. Owner shall give written notice of such termination to Construction Manager specifying when termination becomes effective and the scope thereof. In light of Owner's ability to terminate for convenience, the parties intend and acknowledge that this Agreement is not a "multi-year purchase contract" under O.C.G.A. § 36-60-13(a).

23.2 **Ceasing Performance Upon Termination.** From and after the effective date of any termination, Construction Manager shall not incur, nor permit any Subcontractor to incur, any further expense or obligations in connection with the terminated portion of the Work or Services. From and after the effective date of any termination, Construction Manager shall cease performance and cause the Subcontractors to cease performance, to the extent of the terminated portion of the Work or Services. In the event of termination of this Agreement, Construction Manager shall terminate outstanding Subcontracts and purchase orders related to the terminated portion of the Work or Services unless directed to do otherwise by Owner's Representative. Owner's Representative may direct Construction Manager to assign, and Construction Manager hereby agrees to assign, Construction Manager's right, title and interest under open or terminated Subcontracts to Owner or its designee. Unless directed otherwise by Owner's Representative, Construction Manager shall settle the liabilities and claims arising out of the termination of the Subcontracts. If requested by Owner's Representative, Construction Manager shall vacate the Project site immediately.

23.3 **Submission of Termination Claim.** In the event of termination of all or any part of the Services, the Work or this Agreement for convenience, Construction Manager shall, within one (1) year after the effective date of termination, submit a written termination claim to Owner specifying the amounts due because of the termination together with costs, pricing, and other supporting documentation or data required by Owner's Representative. Construction Manager's failure to file a termination claim within such one (1) year period shall constitute a waiver of any claim to compensation relating to the termination. If a proper termination claim is submitted, then Owner shall pay Construction Manager an amount derived in accordance with paragraph 23.4 herein. Claims submitted under this Article 23 shall not be subject to the procedure set forth in Article 16.

23.4 **Compensation for Termination for Convenience.** As full compensation due to Construction Manager for any termination for convenience, including any amounts due to a Subcontractor on account of such termination, Owner shall, subject to subparagraph (e) below, pay Construction Manager the following amounts:

- (a) Reimbursable Expenses incurred in performing Construction Phase Services and Work accepted under this Agreement;
- (b) Reimbursable Expenses (i) incurred prior to termination in preparing (i) to perform and in performing the terminated portion of the Construction Phase Work and Services, and (ii) incurred in terminating Construction Manager's or Subcontractors' performance;
- (c) Reasonable costs of settling and paying claims arising out of the termination of Subcontracts or orders pursuant to the order of termination; and
- (d) The unpaid portion of Construction Manager's Design Phase and Construction Phase Fees earned to the date of termination as determined by the terms of paragraph 14.1.
- (e) If it appears that the Construction Manager would not have profited, would have sustained a loss, or that its fees would have been diminished if the entire contract would have been completed, no fees shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any, notwithstanding the provisions of subparagraphs (a), (b), (c) and (d) of this paragraph 23.4.

23.4.1 The total sum to be paid the Construction Manager under this paragraph 23.4 shall not exceed the GMP, as properly adjusted, reduced by the amounts of payments otherwise made, and shall in no event include duplication of payment.

23.4.2 In no event shall Construction Manager be entitled to recover from Owner, on its own account or on behalf of a Subcontractor, lost profits or other consequential damages, whether its own or those of a Subcontractor, on account of a termination for convenience or an erroneous termination for cause, as described below.

23.5 **Termination for Cause.** If Construction Manager refuses or fails to perform its Services and duties under this Agreement in a timely manner, supply enough properly skilled supervisory personnel, labor or proper equipment or materials, make prompt payment to its Subcontractors, suppliers, employees, or consultants, or comply with Applicable Laws, or if Construction Manager is otherwise guilty of a material breach of this Agreement or any warranty

made herein, then Owner may, by written notice to Construction Manager, and without prejudice to any other right or remedy, terminate the employment of Construction Manager, in whole or in part, and take possession of the Project site, the Contract Documents, Subcontracts, Project Documentation in the possession of Construction Manager, and all equipment and materials at the site.

23.6 Erroneous Termination for Cause. In the event the employment of Construction Manager is terminated by Owner for cause and it is subsequently determined by a court or other tribunal of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under paragraph 23.1 and the provisions of paragraph 23.4 regarding compensation shall apply.

23.7 Completion by Owner and Survival of Obligations. Following any termination, whether for convenience or for cause and whether in whole or in part, Owner may complete the terminated portion of the Work and the Services by whatever means Owner deems most expedient. Construction Manager's obligations and all provisions of this Agreement shall continue in full force and effect as to all Work or Services performed prior to the effective date of the termination and as to that portion of the Work and Services not affected by the termination.

23.8 Termination by Construction Manager. If the Work, the Services, or this Agreement is suspended by Owner in its entirety for a period of one hundred and twenty (120) consecutive days or more, through no fault of Construction Manager or the Subcontractors, by governmental authority or by direction or neglect of Owner's Representative, or if Owner fails to perform its material obligations to the Construction Manager for a period of sixty (60) days after receipt of written notification from Construction Manager of its intent to terminate hereunder, then Construction Manager may, upon seven (7) days written notice to Owner, terminate its performance under this Agreement. In such event, the Construction Manager shall be entitled to recover from the Owner as though the Owner had terminated the Construction Manager's performance for convenience pursuant to paragraph 23.1 above.

ARTICLE 24

ENVIRONMENTAL ISSUES

24.1 Environmental Licenses, Certifications, & Permits. Construction Manager covenants and agrees that during the term of the Agreement and any extensions or renewals thereof, all of its employees, agents, representatives, and Subcontractors, if any, performing Work will have the requisite skills, licenses, certifications, training, permits and the like mandated by all applicable federal, state and local governing authorities with jurisdiction over environmental matters. Construction Manager agrees to provide to Owner's Representative evidence of compliance with the requirements of this paragraph upon demand.

24.2 Environmental Laws. Construction Manager, its Subcontractors, representatives, employees, and agents shall comply with all federal, state, and local laws, rules, and ordinances relating to environmental protection governing the Work.

24.3 Termination. Construction Manager agrees that a material breach of any of the terms, conditions, and obligations of this Article would be detrimental to Owner, a material breach of this Agreement and grounds for Owner's immediate termination of the Agreement.

24.4 Application with Other Provisions. The provisions of this Article 24 shall operate in addition to, and not in limitation of, any other obligations contained in the Contract Documents.

ARTICLE 25

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ARTICLE 26

MISCELLANEOUS PROVISIONS

26.1 Notices. No notice is effective until the writing containing the notice is placed in the hand of the Owner's Representative or the Construction Manager's Project Manager or is postmarked by certified: U.S. Mail, to the following addresses:

To Owner: Indian River County Sheriff's Office
4055 41st Avenue
Vero Beach, FL 32967
Attention: Project Manager XXXXX

To Construction Manager:

All notices shall be effective upon receipt.

26.2 Successors and Assigns. Construction Manager shall not assign its rights hereunder, excepting its right to payment, nor shall its delegate any of its duties hereunder without Owner's Representative's written consent; Owner shall have the right to assign its rights under this Agreement, but any such assignment shall not relieve Owner of its obligations hereunder. Subject to the provisions of the immediately preceding sentence, Owner and Construction Manager, respectively, bind themselves, their successors, assigns and legal representatives to the other party to this Agreement and to the successors, assigns and legal representatives of such other party with respect to all terms and conditions of this Agreement.

26.3 No Third-Party Beneficiaries. Nothing contained in this Agreement shall create a contractual relationship with, or any rights in favor of, any third party, including any Subcontractor.

26.4 Immigration and Security Compliance. Pursuant to O.C.G.A. § 13-10-91, the Owner shall not enter into a contract for the physical performance of services unless:

(1) the Construction Manager shall provide evidence on Owner-provided forms, attached hereto as "Exhibits H-1 and H-2" (affidavits regarding compliance with the E-Verify program to be sworn under oath under criminal penalty of false swearing pursuant to O.C.G.A. § 16-10-71), that it and its subcontractors have registered with, are authorized to use and use the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and that they will continue to use the federal work authorization program throughout the contract period, or

(2) the Construction Manager provides evidence that it is not required to provide an affidavit because it is an individual licensed pursuant to Title 26 or Title 43 or by the State Bar of Florida and is in good standing. The Construction Manager hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which is provided in "Exhibit G.1", and submitted such affidavit to Owner or provided the Owner with evidence that it is an individual not required to provide such an affidavit because it is licensed and in good standing as noted in sub-subsection (2) above. Further, Construction Manager hereby agrees to comply with the requirements of the federal Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91 and Florida Department of Labor Rule 300-10-1-.02.

In the event the Construction Manager employs or contracts with any subcontractor(s) in connection with the covered contract, the Construction Manager agrees to secure from such subcontractor(s) attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit, the form of which is attached hereto as "Exhibit G.2", which subcontractor affidavit shall become part of the contractor/subcontractor agreement, or evidence that the subcontractor is not required to provide such an affidavit because it is licensed and in good standing as noted in sub-subsection (2) above. If a subcontractor affidavit is obtained, Construction

Manager agrees to provide a completed copy to the Owner within five (5) business days of receipt from any subcontractor.

Where Construction Manager is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the Owner shall be authorized to conduct an inspection of the Construction Manager's and Construction Manager's subcontractors' verification process at any time to determine that the verification was correct and complete. The Construction Manager and Construction Manager's subcontractors shall retain all documents and records of their respective verification process for a period of five (5) years following completion of the contract. Further, where Construction Manager is required to provide an affidavit pursuant to O.C.G.A. § 13-10-91, the Owner shall further be authorized to conduct periodic inspections to ensure that no contractor or subcontractors employ unauthorized aliens on Owner contracts. By entering into a contract with the Owner, the Construction Manager and Construction Manager's subcontractors agree to cooperate with any such investigation by making their records and personnel available upon reasonable notice for inspection and questioning. Where a Construction Manager or Construction Manager's subcontractors are found to have employed an unauthorized alien, the Owner may report same to the Department of Homeland Security. The Construction Manager's failure to cooperate with the investigation may be sanctioned by termination of the contract, and the Construction Manager shall be liable for all damages and delays occasioned by the Owner thereby.

26.5 Nondiscrimination. Nondiscrimination. In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, the Construction Manager agrees that, during performance of this Agreement, the Construction Manager, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed, national origin, gender, age or disability. In addition, the Construction Manager agrees to comply with all applicable implementing regulations and shall include the provisions of this paragraph in every subcontract for services contemplated under this Agreement.

26.6 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction or other competent tribunal or rendered invalid by any legislative or regulatory enactment, the remaining provisions of this Agreement shall remain in full force and effect, and such holding or enactment shall not invalidate or render unenforceable any other provision hereof.

26.7 Headings. The headings used in this Agreement are merely for convenience and shall have no other force, effect or purpose.

26.8 Exhibits. All exhibits annexed hereto, "A" through "N," are incorporated by reference and made a part of this Agreement.

26.9 "Including". The terms "including," "includes," and their derivatives are not intended as terms of limitation and shall be deemed in each instance to be followed by the phrase "without limitation."

26.10 Governing Law. This Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Florida. Each and every provision required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein. The Construction Manager and its Surety(ies) irrevocably consent to the non-exclusive venue and jurisdiction of the Superior Court of Indian River County, Florida, regarding any matter arising out of or relating to this Agreement.

26.11 Entire Agreement | Amendments in Writing. This Agreement represents the entire agreement between Owner and Construction Manager and supersedes all prior communications, negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

26.12 Waiver. No waiver by Owner of any one or more defaults by Construction Manager in the performance of the provisions of this Agreement shall be construed as a waiver of any other defaults, whether of a like kind or different nature.

26.13 Immunities. Nothing contained in this Agreement shall be construed to be a waiver of the Owner's sovereign immunity or any individual's qualified good faith or official immunities.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.
INDIAN RIVER COUNTY, FLORIDA

Signatures:

CONSTRUCTION MANAGER:

By: Print Name: Date:
Its: [CIRCLE ONE]
President/Vice President (Corporation)
General Partner (Partnership/Limited Partnership) Member/Manager (LLC)
Owner (Sole Proprietorship/Individual)

[CORPORATE SEAL]
(required if corporation)

Attest/Witness:

Print Name:

Its:
((Assistant) Corporate Secretary if corporation)

EXHIBIT "A"

SCHEDULE OF REIMBURSABLE EXPENSES

The Reimbursable Expenses for which the Construction Manager may be paid pursuant to this Agreement shall be limited to amounts actually and reasonably incurred and paid by Construction Manager in the interest of the Project, and in performance of Services and the Work, for the following specific items:

- (1) Transportation, lodging and meals in connection with travel for the Project Owner will not reimburse for first-class air travel or higher than business-class lodging).
- (2) The direct costs of maintaining an office on the job site.
- (3) Long-distance communications.
- (4) Fees paid for securing approvals and certifications of authorities having jurisdiction or regulatory power over the Project or its operations.
- (5) Actual costs of reproduction, postage, and handling of drawings, specifications and other documents.
- (6) Surety bonds and insurance required by this Agreement, to the extent such insurance is not ordinarily carried by Construction Manager.
- (7) Construction Manager's reasonable cost of job site mobilization.
- (8) Material, supplies and equipment actually incorporated into the Project or suitably stored, insured, and protected at the job site.
- (9) Job site utilities.
- (10) Cost of removal of garbage and debris.
- (11) Cost incurred due to an emergency affecting safety of persons or property (including the Project), provided such emergency is not caused by, or a result of, acts or omissions on the part of Construction Manager or any Subcontractor.
- (12) Wages actually paid to full-time hourly rate workers directly employed by Construction Manager, at the base hourly wage rate of each such employee, for time actually spent in performance of Services and the Work.
- (13) Salaries paid to salaried personnel of Construction Manager performing Services and Work for the Project, at the hourly rate per hour of each such employee as set forth in Exhibit "F," for time actually spent in performance of Services and the Work
- (14) Overtime wages actually paid. Only those hours worked by an individual in excess of forty (40) hours per week shall be deemed overtime hours, provided that all hours worked by such individual during the week are in performance of Services and the Work for the Project. Overtime hours shall be paid at not more than one and one half (1.5) times the base hourly wage rate of such employee, except that such hours shall be billed at the straight time base hourly wage rate for all exempt personnel. No time charges for overtime hours will be reimbursed if the individual is not paid at an overtime rate for the overtime worked. Except for overtime hours worked due to emergencies, overtime wages shall not be chargeable to Owner unless the overtime hours are authorized in writing in advance by Owner's Representative. Only events or circumstances posing a threat to persons or property (including the Project) or to Owner's interests shall be deemed emergencies for purposes of this paragraph. Insufficient planning or scheduling, or untimely performance, by Construction Manager or its Subcontractors shall not qualify as an emergency. Construction Manager shall provide appropriate documentation, including relevant time sheets or logs, to support overtime charges.
- (15) Any and all other expenses as may be agreed upon in writing by Owner. All sums billed and paid as Reimbursable Expenses shall be at prices and rates consistent with those prevailing in Indian River County, Florida during the scheduled time for performance of this Agreement.

EXHIBIT"B"

MINIMUM REQUIREMENTS FOR CONSTRUCTION MANAGER'S CONSTRUCTION SCHEDULE

PART 1 -GENERAL

- 1.1 DEFINITIONS. For purposes of this Exhibit, the following terms shall have the meanings set forth below.
- A. Activity: A discrete part of a project that can be identified for planning, scheduling, monitoring, and controlling the construction project. Activities included in a construction schedule consume time and resources.
 - 1. Critical activities are activities on the critical path. They must start and finish on the planned early start and finish times.
 - 2. Predecessor Activity: An activity that precedes another activity in the network.
 - 3. Successor Activity: An activity that follows another activity in the network.
 - B. Cost Loading: The allocation of the schedule of values for the completion of an activity as scheduled. The sum of costs for all activities must not exceed that portion of the GMP attributable to Construction Phase Compensation, unless otherwise approved by Architect and Owner.
 - C. CPM: Critical path method, which is a method of planning and scheduling a construction project where activities are arranged based on activity relationships. Network calculations determine when activities can be performed and the critical path of the project.
 - D. Critical Path: The longest connected chain of interdependent activities through the network schedule that establishes the minimum overall project duration and contains no float.
 - E. Event: The starting or ending point of an activity.
 - F. Float: The measure of leeway in starting and completing an activity.
 - 1. Float time belongs to Owner.
 - 2. Free float is the amount of time an activity can be delayed without adversely affecting the early start of the successor activity.
 - 3. Total float is the measure of leeway in starting or completing an activity without adversely affecting the planned project completion date.
 - G. Fagnnet: A partial or fragmentary network that breaks down activities into smaller activities for greater detail.
 - H. Major Area: A story of construction, a separate building, or a similar significant construction element.
 - I. Milestone: A key or critical point in time for reference or measurement.
 - J. Network Diagram: A graphic diagram of a network schedule, showing activities and activity relationships.
 - K. Resource Loading: The allocation of manpower and equipment necessary for the completion of an activity as scheduled.
- 1.2 SUBMITTALS
- A. Preliminary Construction Schedule: Submit two opaque copies.
 - 1. No action or inaction by Architect or Owner in connection with cost-loaded preliminary construction schedule shall constitute or be deemed to constitute approval or acknowledgment of schedule of values for cost-loaded activities.
 - B. Preliminary Network Diagram: Submit two opaque copies, large enough to show entire network or entire construction period. Show logic ties for activities.
 - C. Construction Manager's Construction Schedule: Submit two opaque copies of initial schedule and each updated schedule, large enough to show entire schedule for entire construction period.
 - 1. Submit an electronic copy of schedule, using software indicated, on CD-R, and labeled to comply with requirements for submittals. Include type of schedule (Initial or Updated) and date on label.
 - 2. No action or inaction by Architect or Owner in connection with cost-loaded Construction Manager's Construction Schedule shall constitute or be deemed to constitute approval or

acknowledgment of schedule of values for cost-loaded activities.

D. CPM Reports: Concurrent with CPM schedule, submit three copies of each of the following computer-generated reports. Format for each activity in reports shall contain activity number, activity description, cost and resource loading, original duration, remaining duration, early start date, early finish date, late start date, late finish date, and total float in calendar days.

1. Activity Report: List of all activities sorted by activity number and then early start date, or actual start date if known.
2. Logic Report: List of preceding and succeeding activities for all activities, sorted in ascending order by activity number and then early start date, or actual start date if known.
3. Total Float Report: List of all activities sorted in ascending order of total float.
4. Earnings Report: Compilation of Construction Manager's total earnings from commencement of the Work until most recent Application for Payment.

E. Submittal of the preliminary construction schedule, the initial Construction Manager's Schedule of Construction and updates thereto are for Architect's and Owner's information. No action or inaction by the Architect or Owner shall constitute or be deemed to constitute an approval of Construction Manager's Construction Schedule.

1.3 QUALITY ASSURANCE

A. Scheduling Consultant Qualifications: An experienced specialist in CPM scheduling and reporting, with capability of producing CPM reports and diagrams within 24 hours of Architect's or Owner's request.

B. Prescheduling Conference: Conduct conference to review methods and procedures related to the preliminary Construction Schedule and Construction Manager's Construction Schedule, including, but not limited to, the following:

1. Review software limitations and content and format for reports.
2. Verify availability of qualified personnel needed to develop and update schedule.
3. Discuss constraints, including, if applicable, phasing, work stages, area separations, interim milestones, and partial Owner occupancy.
4. Review delivery dates for Owner-furnished products, if any.
5. Review schedule for work of Owner's separate contracts, if any.
6. Review time required for review of submittals and resubmittals.
7. Review requirements for tests and inspections by independent testing and inspecting agencies.
8. Review time required for completion and startup procedures.
9. Review and finalize list of construction activities to be included in schedule.
10. Review submittal requirements and procedures.
11. Review procedures for updating schedule.

1.4 COORDINATION

A. Coordinate preparation and processing of schedules and reports with performance of construction activities and with scheduling and reporting of separate contractors, if any.

B. Coordinate Construction Manager's Construction Schedule with the schedule of values, list of subcontracts, submittals schedule, progress reports, payment requests, and other required schedules and reports.

1. Secure time commitments for performing critical elements of the Work from parties Involved.
2. Coordinate each construction activity in the network with other activities and schedule them in proper sequence.

PART 2- PRODUCTS

2.1 CONSTRUCTION MANAGER'S CONSTRUCTION SCHEDULE, GENERAL

- A. Procedures: Comply with procedures not less stringent and protective of the Owner than contained in AGC's "Construction Planning & Scheduling."
- B. Time Frame: Extend schedule from date established for commencement of the Work to date of Final Completion.
1. Contract completion date shall not be changed by submission of a schedule that shows an early completion date, unless specifically authorized by Change Order.
- C. Activities: Treat each story or separate area as a separate numbered activity for each principal element of the Work. Comply with the following:
1. Activity Duration: Define activities so no activity is longer than 14 days, unless specifically allowed by Architect and Owner.
 2. Procurement Activities: Include procurement process activities for long lead items and major items, requiring a cycle of more than 60 days, as separate activities in schedule. Procurement cycle activities include, but are not limited to, submittals, approvals, purchasing, fabrication, and delivery.
 3. Submittal Review Time: Include review and resubmittal times in schedule. Coordinate submittal review times in Construction Manager's Construction Schedule with submittals schedule.
 4. Startup and Testing Time: Include a sufficient number of days for startup and testing.
 5. Substantial Completion: Indicate completion in advance of date established for Substantial Completion and allow time for Architect's and Owner's administrative procedures necessary for approval of Substantial Completion.
- D. Constraints: If applicable, include constraints and work restrictions indicated in the Contract Documents and as follows in schedule, and show how the sequence of the Work is affected.
1. Phasing: Arrange list of activities on schedule by phase.
 2. Work under More Than One Contract: Include a separate activity for each contract.
 3. Work by Owner: Include a separate activity for each portion of work performed by Owner.
 4. Products Ordered in Advance: Include a separate activity for each product. Include delivery date. Delivery dates indicated stipulate the earliest possible delivery date.
 5. Owner-Furnished Products: Include a separate activity for each product. Include delivery date. Delivery dates indicated stipulate the earliest possible delivery date.
 6. Work Restrictions: Show the effect of the following items on the schedule:
 - a. Coordination with existing construction.
 - b. Limitations of continued occupancies.
 - c. Uninterruptible services.
 - d. Partial occupancy before Substantial Completion.
 - e. Use of premises restrictions.
 - f. Provisions for future construction.
 - g. Seasonal variations.
 - h. Environmental control.
 7. Work Stages: Indicate important stages of construction for each major portion of the Work, including, but not limited to, the following:
 - a. Subcontract awards.
 - b. Submittals.
 - c. Purchases.
 - d. Mockups.
 - e. Fabrication.
 - f. Sample testing.
 - g. Deliveries.
 - h. Installation.

- i. Tests and inspections.
 - j. Adjusting.
 - k. Curing.
 - l. Startup and placement into final use and operation.
- 8. Area Separations: Identify each major area of construction for each major portion of the Work. Indicate where each construction activity within a major area must be sequenced or integrated with other construction activities to provide for the following:
 - a. Structural completion.
 - b. Permanent space enclosure.
 - c. Completion of mechanical installation.
 - d. Completion of electrical installation.
 - e. Substantial Completion
 - 9. Other Constraints: Show the effect of any additional constraints.
- E. Milestones: Include milestones indicated in the Contract Documents in schedule, including, but not limited to, the commencement of construction, Substantial Completion, and Final Completion and interim milestones required by Owner, if any.
- F. Cost Correlation: At the head of schedule, provide a cost correlation line, indicating planned and actual costs. On the line, show dollar volume of the Work performed as of dates used for preparation of payment requests.
 - 1. Construction Manager shall assign cost to construction activities on the CPM schedule. Costs shall not be assigned to submittal activities unless specified otherwise but may, with Architect's and Owner's approval, be assigned to fabrication and delivery activities. Costs shall be under required principal subcontracts for testing and commissioning activities, operation and maintenance manuals, punch list activities, project record documents, and demonstration and training (if applicable), in an appropriate amount.
 - 2. Each activity cost shall reflect an accurate value subject to objection by Architect or Owner.
 - 3. Total cost assigned to activities shall not exceed that portion of the GMP attributable to Construction Phase Compensation.
- G. Contract Modifications: For each proposed contract modification and concurrent with its submission, prepare a time-impact analysis to demonstrate the effect of the proposed change on the overall project schedule.
- H. Computer Software: Prepare schedules using a program that has been developed specifically to manage construction schedules.
 - 1. Use software, version and operating system required by Owner.

2.2 CONSTRUCTION MANAGER'S CONSTRUCTION SCHEDULE (CPM SCHEDULE)

- A. General: Prepare network diagrams using AON (activity-on-node) format.
- B. Preliminary Network Diagram: Submit diagram not later than 7 days prior to commencement of the Construction Phase. Outline significant construction activities for the first 60 days of construction. Include skeleton diagram for the remainder of the Work and a cash requirement prediction based on indicated activities.
- C. CPM Schedule: Prepare Construction Manager's Construction Schedule using a computerized, cost-loaded and resource-loaded, time-scaled CPM network analysis diagram for the Work.
 - 1. Submit CPM schedule prior to commencement of the Construction Phase.
 - a. Failure to include any Work item required for performance of the Contract Documents shall not excuse Construction Manager from completing all Work within applicable completion dates.
 - 2. Conduct educational workshops to train and inform key Project personnel, including subcontractors' personnel, in proper methods of providing data and using CPM schedule information.

3. Establish procedures for monitoring and updating CPM schedule and for reporting progress. Coordinate procedures with progress meeting and payment request dates.
 4. Use "one workday" as the unit of time. Include list of nonworking days and holidays incorporated into the schedule.
- D. CPM Schedule Preparation: Prepare a list of all activities required to complete the Work. Using the preliminary network diagram, prepare a skeleton network to identify probable critical paths.
1. Activities: Indicate the estimated time duration, sequence requirements, and relationship of each activity in relation to other activities. Include estimated time frames for the following activities:
 - a. Preparation and processing of submittals.
 - b. Mobilization and demobilization.
 - c. Purchase of materials.
 - d. Delivery.
 - e. Fabrication.
 - f. Utility interruptions.
 - g. Installation.
 - h. If applicable, work by Owner that may affect or be affected by Construction Manager's activities.
 - i. Testing and start up.
 2. Critical Path Activities: Identify critical path activities, including those for interim completion dates. Scheduled start and completion dates shall be consistent with contract milestone dates.
 3. Processing: Process data to produce output data on a computer-drawn, time-scaled network. Revise data, reorganize activity sequences, and reproduce as often as necessary to produce the CPM schedule within the limitations of the time for Construction Manager's performance.
 4. Format: Mark the critical path. Locate the critical path near center of network; locate paths with most float near the edges.
 - a. Sub networks on separate sheets are permissible for activities clearly off the critical path.
- E. Initial Issue of Schedule: Prepare initial network diagram from a list of straight "early start- total float sort. Identify critical activities. Prepare tabulated reports showing the following:
1. Construction Manager or subcontractor and the Work or activity.
 2. Description of activity.
 3. Principal events of activity.
 4. Immediately preceding and succeeding activities.
 5. Early and late start dates.
 6. Early and late finish dates.
 7. Activity duration in workdays.
 8. Total float or slack time.
 9. Average size of workforce.
 10. Dollar value of activity (coordinated with the schedule of values).
- F. Schedule Updating: Concurrent with revising schedule, prepare tabulated reports showing the following:
1. Identification of activities that have changed.
 2. Changes in early and late start dates.
 3. Changes in early and late finish dates.
 4. Changes in activity durations in workdays.
 5. Changes in the critical path.
 6. Changes in total float or slack time.
 7. Changes in the time for Construction Manager's performance.
 8. Value Summaries: Prepare two cumulative value lists, sorted by finish dates.
 1. In first list, tabulate activity number, early finish date, dollar value, and cumulative dollar value.

2. In second list, tabulate activity number, late finish date, dollar value, and cumulative dollar value.
3. In subsequent issues of both lists, substitute actual finish dates for activities completed as of list date.
4. Prepare list for ease of comparison with payment requests; coordinate timing with progress meetings.
 - a. In both value summary lists, tabulate "actual percent complete and cumulative value completed" with total at bottom.
 - b. Submit value summary printouts one week before each regularly scheduled progress meeting.

PART 3 - EXECUTION

3.1 CONSTRUCTION MANAGER'S CONSTRUCTION SCHEDULE

- A. Scheduling Consultant: Engage a consultant to provide planning, evaluation, and reporting using CPM scheduling.
 1. In-House Option: Owner may waive the requirement to retain a consultant if Construction Manager employs skilled personnel with experience in CPM scheduling and reporting techniques. Submit qualifications.
 2. Meetings: Scheduling consultant shall attend all meetings related to Project progress, alleged delays, and time impact.
- B. Construction Manager's Construction Schedule Updating: At monthly intervals, update schedule to reflect actual construction progress and activities. Issue schedule one week before each regularly scheduled progress meeting.
 1. Revise schedule immediately after each meeting or other activity where revisions have been recognized or made. Issue updated schedule concurrently with the report of each such meeting.
 2. Include a report with updated schedule that indicates every change, including, but not limited to, changes in logic, durations, actual starts and finishes, and activity durations.
 3. As the Work progresses, indicate actual completion percentage for each activity.
- C. Distribution: Distribute copies of schedule to Architect, Owner, separate contractors, testing and inspecting agencies, subcontractors and other parties identified by Construction Manager with a need-to-know.
 1. Post copies in Project meeting rooms and temporary field offices.
 2. When revisions are made, distribute updated schedules to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in performance of construction activities.

END OF EXHIBIT

EXHIBIT"C"

LIQUIDATED DAMAGES

Liquidated damages as provided by Article 7 of this Agreement shall be the amount stated in the right column below which is directly opposite the applicable Guaranteed Maximum Price (GMP) range stated in the left column below, based on the ratio of the cost of the Work (which shall include all Design Phase Compensation and all Construction Phase Compensation) to the GMP.

If the Original GMP Is: Daily Liquidated Damages Shall Be:

Up to \$49,999.99
\$50,000.00 to \$99,999.99
\$100,000.00 to \$299,999.99
\$300,000.00 to \$599,999.99
\$600,000.00 to \$999,999.99
\$1,000,000.00 to
\$1,999,999.99
\$2,000,000.00 to
\$4,999,999.99
\$5,000,000.00 to
\$9,999,999.99
\$10,000,000.00 to
\$14,999,999.99
\$15,000,000.00 to
\$19,999,999.99
\$20,000,000.00 or above

\$ 50
\$100
\$200
\$300
\$400
\$500
\$750
\$1,500
\$2,500
\$3,500

The product of .0002 multiplied by the original GMP.

EXHIBIT"D"

PARTIAL WAIVER AND RELEASE OF CLAIM RIGHTS

PROJECT: Design Build- Administrative Service Complex OWNER: Indian River County, Florida

The undersigned does hereby forever release, waive and discharge any and all claim rights and claims, any and all labor and material bond rights and claims, and any and all equitable rights and claims for all labor, subcontract work, equipment, materials and services supplied to the above project through the date indicated below.

This RELEASE and WAIVER shall inure to the benefit of, and may be relied upon by, OWNER. The undersigned further warrants that all persons employed by the undersigned and all persons supplying materials to the undersigned and all persons renting equipment to the undersigned have been paid in full.

DATED: _ FIRM: _ BY: _

TITLE: _

STATE OF
COUNTY OF

Subscribed and sworn before me this day of , 2023.

Notary Public

EXHIBIT"E"

FINAL WAIVER AND RELEASE OF CLAIM RIGHTS

PROJECT: Design Build- Administrative Service Complex OWNER: Indian River County, Florida

The undersigned does hereby forever release, waive and discharge any and all claim rights and claims, any and all labor and material bond rights and claims, and any and all equitable rights and claims for all labor, subcontract work, equipment, materials and services supplied to the above project.

This RELEASE and WAIVER shall inure to the benefit of, and may be relied upon by, OWNER. The undersigned further warrants that all persons employed by the undersigned and all persons supplying materials to the undersigned and all persons renting equipment to the undersigned have been paid in full.

DATED: _ FIRM: _

BY: _

TITLE: _

STATE OF
COUNTY OF

Subscribed and sworn before me this day of , 2023.

Notary Public

EXHIBIT"F"

CONSTRUCTION MANAGER'S PERSONNEL LIST

Group Manager	\$	/ Hr.
Senior Project Manager	\$	/ Hr.
Project Manager	\$	/ Hr.
Senior Estimator	\$	/ Hr.
Estimator 2	\$	/ Hr.
Estimator 1	\$	/ Hr.
Senior Project Engineer	\$	/ Hr.

Project Engineer		\$	/ Hr.
Scheduling		\$	/ Hr.
MEP	\$	/ Hr.	
Safety	\$	/ Hr.	
Quality Assurance		\$	/ Hr.
Administrative Assistant		\$	/ Hr.
Senior Project Coordinator		\$	/ Hr.
Project Coordinator		\$	/ Hr.
General Superintendent		\$	/ Hr.
Senior Superintendent		\$	/ Hr.
Senior Architect	\$	/ Hr.	
Senior MEP Engineer		\$	/ Hr.
Senior Civil Engineer		\$	/ Hr.

EXHIBIT "G"

INSURANCE REQUIRED OF CONSTRUCTION MANAGER

1. The Design Build firm or team shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance specified in the Design Build Contract. The insurer shall be in good standing within the state of Florida through the Insurance Commissioner's Office and must be rated A- or better with AM Best Company.
2. The Certificate of Insurance evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting Indian River County's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Director of Facilities & Maintenance.
3. The Certificate of Insurance shall reference the RFP identification number and description as evidencing this requirement.
4. The Contractor shall insert the substance of this requirement, including this paragraph, in Subcontracts under the Agreement that require work on property and shall require Subcontractors to provide and maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Purchasing Department upon request.
5. Comprehensive General Liability:
This shall be taken out in the name of the Construction Management firm with the Board of Commissioners of Indian River County, its board members, officers, and employees, to be included as an additional insured. It shall include: Comprehensive Form, Premise Operations, Explosion and Collapse Hazard, Underground Hazard, Products and Completed Operations Hazard, Broad Form Property Damage, Independent Contractors, Contracts, Personal Injury, etc.
☐ Combined Single Limit shall not be less than \$1,000,000.00 for each occurrence and not less than \$2,000,000.00 aggregate.
6. Automobile Liability Insurance:
Taken out in the name of the Construction Management firm
☐ Combined Single Limit shall not be less than \$1,000,000.00 for each occurrence and not less than \$1,000,000.00 aggregate.
7. Worker's Compensation Insurance:
Both the Construction Management Firm and the Design-Build Firm (if different) shall obtain and maintain Worker's Compensation Insurance in accordance with statutory requirements and Employer's Liability Insurance covering all employees of the CM Firm, the Design-Build firm and any uninsured Subcontractor(s). It shall be the responsibility of the Construction Management firm to ensure Subcontractors' compliance with this requirement.
☐ For Employer's Liability Insurance coverage, the combined Single Limit shall not be less than \$1,000,000.00 for each occurrence.

Before commencing any job, the Construction Manager shall provide the Owner with satisfactory evidence that the above-mentioned insurance is in force, to be evidenced by an affirmative approval of the insurance from the Indian River County Purchasing Department.

8. Professional Liability Insurance:

This shall be taken out in the name of the Design-Build Team or subcontractor serving as the Architect.

☐ This shall provide \$2,000,000.00 Minimum for Errors and Omissions.

Before commencing any work, the Construction Manager shall provide the Purchasing Department with certificates of insurance or other satisfactory evidence that the above-mentioned bonds are in force, to be evidenced by an affirmative approval of the insurance from the Purchasing Department.

EXHIBIT"H-1"

STATE OF FLORIDA COUNTY OF INDIAN RIVER

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services on behalf of Indian River County, Florida has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period, and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b).

The contractor attests that the employee-number category designated below is applicable to it.

500 or more employees.

100 or more employees.

Fewer than 100 employees.

Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on , 2023 in
(city), (state).

Date of Authorization

Signature of Authorized Officer or Agent

Name of Contractor

Printed Name and Title of Authorized Officer or

Design Build- Administrative Service Complex Name of Project

Indian River County, Florida Name of Public Employer

Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE DAY OF , 2023.

Notary Public

[NOTARY SEAL]

EXHIBIT H-2

SUBCONTRACTOR AFFIDAVIT

STATE OF FLORIDA COUNTY OF INDIAN RIVER

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with (name of contractor) on behalf of Indian River County, Florida has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period, and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub- subcontractor to the contractor within five (5) business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five (5) business days of receipt, a copy of the notice to the contractor. The subcontractor contractor attests that the employee-number category designated below is applicable to it:

500 or more employees. 100 or more employees. Fewer than 100 employees.

Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization Name of Subcontractor

Design Build- Administrative Service Complex Name of Project

Indian River County, Florida Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on , 2023 in
(city), (state).

Signature of Authorized Officer or Agent

18. Everyone is responsible for protecting the Owner's property as well as the work of other trades. Any damage or installation conflicts shall be reported immediately to the Design/Builder's superintendent.

19. Radios shall not be used.

20. The job site shall be kept tidy. All materials and tools shall be kept in a safe and orderly fashion. Clean up and remove your construction debris on a daily basis. Each trade is responsible for cleaning up after themselves.

EXHIBIT "K"

REQUEST FOR PROPOSAL COVER

EXHIBIT "L"

RFP SUBMISSION COVER

EXHIBIT "M"

PERFORMANCE BOND

INDIAN RIVER COUNTY, FLORIDA

KNOW ALL MEN BY THESE PRESENTS THAT

(as CONTRACTOR, hereinafter referred to as the "Principal"), and

(as SURETY COMPANY, hereinafter referred to as the "Contractor's Surety"), are held and firmly bound unto Indian River County, Florida (as OWNER, hereinafter referred to as the "County"), for the use and benefit of the County, in the sum of

Dollars (\$.), lawful money of the United States of America, for the payment of which the Principal and the Contractor's Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written agreement with the County for the construction of a project known as Design Build- Administrative Service Complex (hereinafter referred to as "the Project"), which agreement is incorporated herein by reference in its entirety (hereinafter referred to as the "Contract").

NOW THEREFORE, the conditions of this obligation are as follows:

1. That if the Principal shall fully and completely perform each and all of the terms, provisions and requirements of the Contract, including and during the period of any warranties or guarantees required thereunder, and all modifications, amendments, changes, deletions, additions, and alterations thereto that may hereafter be made, and if the Principal and the Contractor's Surety shall indemnify and hold harmless the County from any and all losses, liability and damages, claims, judgments, liens, costs and fees of every description, including but not limited to, any damages for delay, which the County may incur, sustain or suffer by reason of the failure or default on the part of the Principal in the performance of any and all of the terms, provisions, and requirements of the Contract, including all modifications, amendments, changes, deletions, additions, and alterations thereto, and any warranties or guarantees required thereunder, then this obligation shall be void; otherwise to remain in full force and effect;
2. In the event of a failure of performance of the Contract by the Principal, which shall include, but not be limited to, any breach or default of the Contract:
 - a. The Contractor's Surety shall commence performance of its obligations and undertakings under this Bond no later than thirty (30) calendar days after written notice from the County to the Contractor's Surety; and
 - b. The means, method or procedure by which the Contractor's Surety undertakes to perform its obligations under

this Bond shall be subject to the advance written approval of the County.

The Contractor's Surety hereby waives notice of any and all modifications, omissions, additions, changes, and advance payments or deferred payments in or about the Contract, and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, and advance payments or deferred payments. The Parties further expressly agree that any action on this Bond may be brought within the time allowed by Florida law for suit on contracts under seal.

IN WITNESS WHEREOF, the Principal and Contractor's Surety have hereunto affixed their corporate seals and caused this obligation to be signed by their duly authorized officers or attorneys-in- fact, as set forth below.

CONTRACTOR ("Principal"):

By: (signature)

(print) Title:

Attest: Date:

(signature)

(print) (SEAL) Title:

Date:

CONTRACTOR'S SURETY:

By: (signature)

(print) Title:

Attest: Date:

(SEAL)

(signature)

(print) Title:

Date:

(ATTACH SURETY'S POWER OF ATTORNEY)

EXHIBIT "N"

PAYMENT BOND

INDIAN RIVER COUNTY, FLORIDA

KNOW ALL MEN BY THESE PRESENTS THAT (as
CONTRACTOR, hereinafter referred to as the "Principal"), and

(as SURETY COMPANY, hereinafter referred to as the "Contractor's Surety"), are held and firmly bound unto Indian River County, Florida (as OWNER, hereinafter referred to as the "County"), for the use and benefit of any "Claimant," as hereinafter defined, in the sum of

Dollars (\$.), lawful money of the United States of America, for the payment of which the Principal and the Contractor's Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written agreement with the County for the construction of a project known as Design Build- Administrative Service Complex (hereinafter referred to as "the Project"), which agreement is incorporated herein by reference in its entirety (hereinafter referred to as the "Contract").

NOW THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to any Claimant, as hereinafter defined, for all labor, services, and materials used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise to remain in full force and effect.

A "Claimant" shall be defined herein as any subcontractor, person, party, partnership, corporation, or other entity furnishing labor, services, or materials used or reasonably required for use in the performance of the Contract, without regard to whether such labor, services, or materials were sold, leased, or rented, and without regard to whether such Claimant is or is not in privity of the Contract with the Principal or any Subcontractor performing Work on the Project.

In the event of any claim made by the Claimant against the County, or the filing of a Lien against the property of the County affected by the Contract, the Contractor's Surety shall either settle or resolve the Claim and shall remove any such Lien by bond or otherwise as provided in the Contract.

The Parties further expressly agree that any action on this Bond may be brought within the time allowed by Florida law for suit on contracts under seal.

IN WITNESS WHEREOF, the Principal and Contractor's Surety have hereunto affixed their corporate seals and caused this obligation to be signed by their duly authorized officers, as set forth below.

[SIGNATURES ON FOLLOWING PAGE]

CONTRACTOR ("Principal"):

By: (signature)

(print) Title:

Attest: Date:

(signature)

(print) (SEAL) Title:

Date:

CONTRACTOR'S SURETY:

By: (signature)

(print) Title:

Attest: Date:

(SEAL)

(signature)

(print) Title:

Date:

(ATTACH SURETY'S POWER OF ATTORNEY)

ATTACHMENT B- SPECIAL CONDITIONS

The Indian River County Sheriff's Office has been informed by Indian River Farms Water Control District that any future construction projects at the IRCSO Campus shall **require an updated analysis of the full master stormwater system** demonstrating compliance with IRFWCD permit criteria.

All proposed bidders are hereby dully informed of this requirement and must include this consideration in proposal submissions.

INDIAN RIVER FARMS WATER CONTROL DISTRICT
(IRFWCD)
7305 4th Street
Vero Beach, Florida 32968
(772) 562-2141

APPLICATION FOR CONNECTION TO OR USE OF DISTRICT FACILITIES

Date: _____ No. _____

A. Applicant Information:

Owner: _____

Address: _____

Authorized Agent and Title: _____

Telephone Number: _____

B. Proposed Connection or Use: (check appropriate box and prices): **NON-REFUNDABLE**

Culvert connection to District canal for irrigation or drainage \$100.00

Pump connection to District canal for irrigation or drainage \$300.00

Culvert and/or control structure in District canal for crossing and water storage \$200.00

Other (specify): _____ \$100.00

C. Location: Section _____, Township _____, Range _____, Canal No. _____

Other appropriate information (copy of deed or tax bill) _____

Property ID/Parcel No.: _____

Attach drawing to show details (include acreage to be served).

D. Details of proposed Construction: (Give diameter and length of culvert; diameter and rated capacity of pump; height and width of riser or other details on water control structure.)

E. Special Conditions: (for District use only)

F. Estimated Date of Construction Commencement: _____

Estimated Date of Construction Completion: _____