II, D.3.

AGENDA REPORT
April 24, 2018

SUBJECT:
Board approval of an internal loan from the Board's Property Casualty Program to the Parks and Recreation Department not-to-exceed $12,000,000

FISCAL IMPACT:
This fiscal impact of this request will enable the Parks and Recreation Department expedite the repairs of the damages caused by Hurricanes Matthew and Irma. The Property and Casualty Insurance Program will receive interest based on the County's consolidated investment earnings rate.

DEPT/OFFICE:
County Manager

REQUESTED ACTION:
It is requested that the Board of County Commissioners approve an internal loan from the Board's Property Casualty Program to the Parks and Recreation Department, on an as needed basis, not-to-exceed $12,000,000, authorize the County Manager to have the internal loan documents executed and authorize the County Manager to approve all necessary budget change requests to implement this request.

SUMMARY EXPLANATION and BACKGROUND:
In order to expedite the repairs of the damages caused by Hurricanes Matthew and Irma to numerous Parks and Recreation facilities throughout Brevard County, an internal loan from the County's Property and Causality Program is requested. This loan will fund repair costs prioritized based upon safety, usage and revenue capacity of each park ɔtaling $11,984,036. These projects are listed in Exhibit A, of memorandum sent to the ʼard of County Commissioners dated April 5, 2018 and as an Attachment to this item. ʼ to the timeframes needed to bid engineering, design and construction of these ɔts, staff believes that an internal loan will move these projects forward as quickly as le, as described in an email dated April 5, 2018 and as an Attachment to this item. ʻing Services is currently soliciting bids, in accordance with FEMA requirements, ɿ contractors, design services and civil engineering services. ǝted that for the most part, Insurance and FEMA reimbursements for these ǝke up to two and one half years. Upon receipt of Insurance and FEMA ɿts, the reimbursements will be returned to the Property Casualty fund as ʻis temporary loan. Once all reimbursements are received, staff will come

back to the Board to discuss the balance of temporary loan so it may be closed out.

ATTACHMENTS:

Description

- **Memorandum to the Board Apirl 5 2018**
- **Email to the Board April 5 2018**
- **Temporary Loan Parks and Recreation Department**

Brevard COUNTY

BOARD OF COUNTY COMMISSIONERS

JAMES P. LIESENFELT, INTERIM ASSISTANT COUNTY MANAGER
2725 Judge Fran Jamieson Way, Building C, Room 301
Viera, FL 32940
jim.liesenfelt@brevardcounty.us

OFFICE OF THE COUNTY MANAGER
Phone: 321.633.2003
Fax: 321.633.2115
www.brevardcounty.us

DATE: April 5, 2018

TO: Board of County Commissioners

THROUGH: Frank Abbate, County Manager

FROM: James Liesenfelt, Interim Assistant County Manager

SUBJECT: Hurricane Damage Repairs/Parks and Recreation

As you are aware, Hurricane Irma damaged numerous Parks and Recreation facilities throughout Brevard County. The total damage to the County owned parks are estimated to be $15,275,337. Exhibit A is a listing of the hurricane damage to county parks that are currently unfunded, including the estimated costs to repair. This prioritization that staff is recommending is based upon safety, usage and revenue capacity of each park. The spreadsheet lists the projects by priority order, the estimated cost for each project, balance forward and the insurance proceeds allocated to each project, and the projected funding required for each project. All projects have been submitted to FEMA for reimbursement. However, a majority of the FEMA funding is not expected to be received at least until Fiscal Year 2020/2021.

Along with Parks and Recreation balance forward and insurance funds, staff has identified available balance forward funds from the General Fund that staff is proposing to be allocated to the five high priorities. The total amount of balance forward funding is $1,351,410 and will be utilized to begin work on the following:

Top Five Priorities	Action Taken	Funding
Central Area roofs	Purchased Orders Issued	$113,448
Merritt Island Veteran's Center boardwalk	Architectural and Engineering, bid preparation	$436,137
Port St. John Community Center carpet replacement	Project out to bid	$56,216
Parrish Park docks	Architectural and Engineering, bid preparation	$751,643
Titusville Veterans Pier catwalk	Architectural and Engineering, bid preparation	$294,729

During the April 24, 2018, BOCC Meeting, staff plans to request permission to authorize a loan from the Property Causality Fund in the amount of $12,000,000 in order to begin and continue work on repairs and replacement of the remaining projects until FEMA reimbursements occur to complete outstanding projects and repay the Property Causality Fund. In addition to the listed projects, there are three remaining projects that have been submitted to FEMA as mitigation projects and, as such, work on the projects cannot begin until FEMA approves the mitigation application. The total estimated cost for the three mitigation projects is $1,891,268.

Staff has completed a number of repairs to parks throughout the county. These repairs were completed with existing available funds, by delaying planned parks projects, or by using existing available materials. Exhibit B contains a listing of the repairs completed and the parks in which the repairs were made. As you can see, Parks and Recreation Staff has been, and remains active in repairing and replacing damage in the Parks throughout the County.

Attachments

BREVARD County
BOARD OF COUNTY COMMISSIONERS

FLORIDA'S SPACE COAST

Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

April 25, 2018

MEMORANDUM

TO: Frank Abbate, County Manager

RE: Item II.D.3., Internal Loan from Property Casualty Program to the Parks and Recreation Department, Not-to-Exceed $12,000,000

The Board of County Commissioners, in regular session on April 24, 2018, approved an Internal Loan from the Property Casualty Program to the Parks and Recreation Department, on an as needed basis, and not-to-exceed $12,000,000; authorized you to have the Internal Loan document executed; and authorized you to have the Internal Loan documents executed; and authorized you to approve all necessary budget change requests. Enclosed is the Internal Loan for your action.

Upon execution by Human Resources Director and Parks and Recreation Department Director, please return the fully-executed Internal Loan to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: Finance
Budget

Exhibit A

Parks and Recreation Department
Hurricane Priority List

		Estimate	Balance Forward Commited	Ins Rec'd	Funds Needed
1	Central Area Roofs	$113,448			0
1	Veterans Boardwalk	$1,000,000	$372,288	$63,849	$563,863
2	Parrish Park Docks- Titusville	$751,643	$751,643		$0
3	Kennedy Point Boat Ramp & Seawall	$703,695			$703,695
4	Titusville Veterans Pier Catwalk	$294,729	$190,729	$104,000	$0
5	Waterway South Dock & 3 T-docks	$225,000			$225,000
6	Riverwalk Park Boardwalk	$53,820			$53,820
7	Space View Park Boardwalk & Dock	$2,842,000			$2,842,000
8	Rotary South Boardwalk & Dock	$1,453,140			$1,453,140
9	Kiwanis Island South Side Dock	$181,500			$181,500
10	Statham Boardwalk	$900,000			$900,000
11	Kelly Park East Seawall	$181,500	$36,750		$144,750
12	Marina Park Shoreline	$1,573,425			$1,573,425
13	Sandpoint Park Shoreline	$2,198,547			$2,198,547
14	Manzo Park Shoreline & Boardwalk	$359,568			$359,568
15	Nicol Park Shoreline	$423,968			$423,968
16	Mcfarland Fishing Pier & Dock	$138,600			$138,600
17	Ulumay Fishing Pier	$154,660			$154,660
18	Valencia Fishing Pier	$67,500			$67,500
			$1,351,410	$167,849	$11,984,036

Mitigated Projects	Matthew	Irma	Total
Port St John Boat Ramp	$450,000	$150,592	$600,592
Hog Point Caretaker House	$190,000	$0	$190,000
Manatee Hammock Shoreline	$747,708	$352,968	$1,100,676

Exhibit B

Parks and Recreation Department
Hurricane Repairs Completed

Park Location	Damage Summary and Repairs needed
Manatee Hammock Campground	Several Trees uprooted, Several trees snapped in half, several
	trees have limbs broken off, several trees have limbs partially
	broken and are still hanging in the trees, & Several completely
	broken branched hung up in the trees
Manatee Hammock Campground	Lots of palm fronds, pine, and oak branches all over the ground
	Lots of other peoples dock debris and other debris along riverfront
	Using a 6 man crew, 8hr per day, 7days a week, for 8 weeks
Manatee Hammock Campground	Gate latches & Drop Rods on US1 Gate, both Maintenance yard
	gates, and caretaker gate damaged. 3in post supporting half of the
	gate to maintenace yard on the south side bent.
Chain of Lakes	78 trees down throughout the park
	Two awnings over bleachers at 3-plex damaged
Gibson	Football scoreboard damaged
Isaac Campbell Park	Three trees down, one across a fence, 50' fence damaged
	Front gate damaged
Manzo Park	50' stockade fence down north side
Rotary Park-South	100' 6 ft chain link fence damaged
Walter Butler Community Center	Gutters on south side of gym disconnect at roof line
F.B.Smith	vinyl ceiling in Karberg pavilion ripped outon south side (10x30', 4x20', 4x20'sections)
	Playground mulch washed into west lake
Junny R. Martinez	Parking lot light lamp on west side of park at BB court damaged
Travis Park & CC	Gym roof leak
	(1) Metal roof panel blown off rental pavilion
	Center light pole lens/visor blown off into volleyball court
Mcfarland	Two rail fence knocked down in numerous palces by red cedar
	Debris, numerous wood & dock portions from other properties to the southin parking areas
Kelly East	(4) metal trash receptacles demolished
	Numerous twited/downed signs
	Picnic table on concrete slab dismounted due to erosion
	50' of single rail fence down
	Corner ridge vent missing from restroom
	Mulch washed from playground into lagoon
Kelly West	Ridge vent blown off restroom, inside screen missing from men/women louvered windows
	(3) 3" fence poles bent on east side of tennis court
Kings Park	Ridge cap blown off single table pavilion
Manatee Cove	30' of double wood rail fence down
	60' of post/rail fence down at playground
	(2) 30", (1) 20", (8" maple trees down. (1) Elm tree down
	Shell erosion at non-motorized boat ramp
	Signage blown over
Mitchell Ellington Park	Baseball: Foul poles bent on #1 left field, #3 right field, #2 left field (pole down), #4 both bent
	15" soffit missing 2nd floor pressbox
	Softball: Foul poles bent both fields, 4"dia. Elm tree snapped in half,
	Metal trash receptacle blown off footer

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Parks and Recreation Department
Hurricane Repairs Completed

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	S. football goal twisted
	Signage twisted
	Ridge vent blown & disconnected from concession roof
	#2 field roof damagevisitor side dugout, metal panels blown up
	Metal roof ripped off left field dugout on field #3
Kiwanis Island Park & CC	Water damage in Community Bldg. 1' water inside building
Audubon Elementary	Maintenance shed destroyed
Woody Simpson Park & CC	Computer Lab roof leak, water in building
Veterans Memorial Park	3rd floor soffit gone
Strickland Park	Shoreline damage, still under water
Mclarty Park & CC	Shingles missing Restroom roof on the hill S.side
Riverwalk Park	Replace 50' of top rail & 2x4's damaged by fallen trees
Mcknight Park	Twisted & broken goal posts on Football field
	Tennis shed side wall metal panels torn off
J.L.Smith Park & CC	Roof & soffit damage to Center
	Light covers missing on soffit area
South Mainland Community Center	Approximate 110 L.F of ridge vent missing off gymnasium building. Approximate 12 shingles missing off community building.
Suntree Ballfields	Approximately 20' of soffit damage on the east side of the concession building.
Rodes Park	One heavily damaged bleacher that got blown around.
Viera Regional Park	9 informational signs down throughout the park. 4 signs missing but not sure what they were due to them
Spessard Holland North and South	Debris and shingles off pavilions
Coconut Point	Pavilion shingle caps are missing.Stringer and collar damaged split boards.
Ponce	Pavilion and Restroom building has shingle cap damage. Stair stringer was broken and the treads are gone.
South Beaches Community Park	outside rear restroom leak on the roof by skylight in the men's room. Roof and Fascia damage and leaking into the gym. Twisted and downed signs.
Flutie Athletic Complex	Senior field backstop down and hanging 4" pole is bent fabric is off. 12 Foul poles snapped off. Baseball concession roof ridge vent damage. Baseball pavilion missing shingles. Pump houses are missing shingles. Maintenance bldg. soffit damage. Busted pipe at the lift station.
Canova Dog Park	Signs are down and twisted. Missing Main dog park rules sign Downed Palm tree. Handicap ramp crossover has 30' of damaged stringer deck and side boards.
Spra Park	Pump house shed blown into opposite parking lot. Park sign leaning. Erosion has a 2' drop from end of last step.
Wickham Park	Dog Park- South side fence down on dog wash. Irrigation shed roof over well head is damaged. Four (4) light fixtures in shuffle board court damaged. .Pole feed between drive (west end) leaning and power panel blown off. Marquee -2 panels out. Two broken picnic tables. 5x4 hardee board on women's restroom loop B damaged.
Long Point Park	10 pedestals are currently in the water. 2 pedestals damaged. Site 77 washed out and no longer usable. 10 feet of soffit damaged on restroom. 20 feet of ridge cap damaged on pavilion #2 and #3.

Roth, Joy

From:	Abbate, Frank B
Sent:	Thursday, April 05, 2018 4:14 PM
To:	CGroup
Subject:	Hurricane Irma Repairs
Attachments:	Hurricane Damage Repairs - P&R.PDF

Commissioners:

As requested during our discussions at recent Board meetings, attached is a cover memo and report recently prepared by Jim Liesenfelt and Parks staff outlining damage within the County's park system relating to Hurricane Irma. If the Board approves staff's recommendations as outlined in Mr. Liesenfelt's memo and our mid-year supplement requests, I will be requesting that remaining hurricane related projects outlined in the above referenced report be funded through a temporary loan from the County's Property and Casualty Insurance fund. It is anticipated that for the most part, FEMA reimbursement for these repairs will take up to two and one half years. FEMA reimbursements will be returned to the Property Casualty fund as repayment of this temporary loan upon receipt of those funds. Due to the timeframes needed to bid engineering, design and construction of these projects, staff believes the funds that will be needed to move these projects forward as quickly as possible will be available for temporary use during the loan period. Staff believes the Property Casualty reserve fund will be reimbursed before that fund will need the loaned funds from a cash flow perspective. This Office will be submitting an agenda item requesting the Board's consideration for the temporary loan described herein at an upcoming Board meeting.

Frank

Frank Abbate
County Manager
2725 Judge Fran Jamieson Way, Bldg. C
Viera, FL 32940
PH: (321) 633-2001
FAX: (321) 633-2115

Brevard COUNTY
BOARD OF COUNTY COMMISSIONERS

Brevard COUNTY

BOARD OF COUNTY COMMISSIONERS

JAMES P. LIESENFELT, INTERIM ASSISTANT COUNTY MANAGER
2725 Judge Fran Jamieson Way, Building C, Room 301
Viera, FL 32940
jim.liesenfelt@brevardcounty.us

OFFICE OF THE COUNTY MANAGER
Phone: 321.633.2003
Fax: 321.633.2115
www.brevardcounty.us

DATE: April 5, 2018

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THROUGH: Frank Abbate, County Manager

FROM: James Liesenfelt, Interim Assistant County Manager

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Inter-Departmental/Fund Loan

Parks and Recreation Loan

WHEREAS, The County Insurances Program Internal Service Fund has Property and Casualty Insurance Reserves that are not required for the immediate needs of the County Insurance Program; and

WHEREAS, The Parks and Recreation Department requests loan funding to repair hurricane damage to Parks throughout the County; and

WHEREAS, Policy No BCC-56, Budget and Financial Policies provide for inter-departmental/ fund loans.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree, as follows:

I. **AUTHORIZATION:** The County Insurance Program Internal Service Fund will loan funds to the Parks and Recreation Department. At the request of the Parks and Recreation Department, funds shall be transferred from the County Insurance Program, Property and Casualty Insurance Reserve, to the Parks and Recreation Department's programs operating accounts.

II. **AMOUNT OF LOAN:** $12,000,000.

III. **TERMS AND PAYMENTS:** The initial Principal shall be repaid over a period of up to six (6) years, commencing up to one (1) year after receipt of Federal Emergency Management Agency (FEMA) Hurricane Matthew and Hurricane Irma reimbursement funds. The Parks and Recreation Department shall make annual payments of principal and interest to the County Insurance Fund each year until the loan and interest are repaid.

IV. **INTEREST RATES:** The interest rate the Parks and Recreation Department Fund shall pay on the outstanding Principal shall be the rate of the County Consolidated Investment Earning Rate (CCIER). The amount of the annual interest payment will be calculated based on the average monthly CCIER, as determined by the County Finance Department. It is the specific intent of this agreement that the interest charged to the Parks and Recreation Department shall be equal to the interest income lost by the County Insurance Program Internal Service Fund. Because the CCIER is a variable rate; the amount of the annual payment will vary.

V. **SOURCE OF FUNDS:** The Parks and Recreation Department Program FEMA Hurricane Matthew and Hurricane Irma reimbursement funds shall be the source of funds.

4.24.18

Gerald Visco Date
Human Resources Director

Mary Ellen Donner 4.24.18

Mary Ellen Donner Date
Parks and Recreation Department Director

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: Canaveral Construction Co.	
2. Fund/Account #:	**3. Department Name:** Parks and Recration
4. Contract Description: Construction Manager Contract for dock replacement at Tom Statham Park	
5. Contract Monitor: Melissa Renninger	**7. Contract Type:**
6. Dept/Office Director: Mary Ellen Donner	CONSTRUCTION

SECTION II – REVIEW AND APPROVAL TO ADVERTISE

COUNTY OFFICE	APPROVAL YES	APPROVAL NO	SIGNATURE	DATE
User Agency	☐	☐		
Risk Management	☐	☐		
County Attorney	☐	☐		

SECTION III – REVIEW AND APPROVAL TO EXECUTE

COUNTY OFFICE	APPROVAL YES	APPROVAL NO	SIGNATURE	DATE
User Agency	☑	☐	Renninger, Melissa	09/26/2019
Risk Management	☑	☐	Lairsey, Matt	09/26/2019
County Attorney	☑	☐		9/26/2019

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	☐
Department	☐
Program	☐
Contact Name	☐
Cost Center, Fund, and G/L Account	☐
Vendor Information (SAP Vendor #)	☐
Contract Status	☐
Contract Title	☐
Contract Type	☐
Contract Amount	☐
Storage Location (SAP)	☐
Contract Approval Date	☐
Contract Effective Date	☐
Contract Expiration Date	☐
Contract Absolute End Data (No Additional Renewals/Extensions)	☐
Material Group	☐
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	☐
"Right To Audit" Clause Included in Contract	☐
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	☐

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: Canaveral Construction Co.	
2. Fund/Account #:	**3. Department Name:** Parks and Recration
4. Contract Description: Construction Manager Contract for dock replacement at Tom Statham Park	
5. Contract Monitor: Melissa Renninger	**7. Contract Type:** CONSTRUCTION
6. Dept/Office Director: Mary Ellen Donner	

SECTION II – REVIEW AND APPROVAL TO ADVERTISE

COUNTY OFFICE	APPROVAL YES	APPROVAL NO	SIGNATURE	DATE
User Agency	☐	☐		
Risk Management	☐	☐		
County Attorney	☐	☐		

SECTION III – REVIEW AND APPROVAL TO EXECUTE

COUNTY OFFICE	APPROVAL YES	APPROVAL NO	SIGNATURE	DATE
User Agency	☑	☐	Renninger, Melissa Digitally signed by Renninger, Melissa Date: 2019.09.26 08:23:10 -04'00'	09/26/2019
Risk Management	☑	☐	Lairsey, Matt Digitally signed by Lairsey, Matt Date: 2019.09.26 08:59:13 -04'00'	09/26/2019
County Attorney	☐	☐		

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	☐
Department	☐
Program	☐
Contact Name	☐
Cost Center, Fund, and G/L Account	☐
Vendor Information (SAP Vendor #)	☐
Contract Status	☐
Contract Title	☐
Contract Type	☐
Contract Amount	☐
Storage Location (SAP)	☐
Contract Approval Date	☐
Contract Effective Date	☐
Contract Expiration Date	☐
Contract Absolute End Data (No Additional Renewals/Extensions)	☐
Material Group	☐
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	☐
"Right To Audit" Clause Included in Contract	☐
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	☐

Roth, Joy

From: Abbate, Frank B
Sent: Thursday, April 05, 2018 4:14 PM
To: CGroup
Subject: Hurricane Irma Repairs
Attachments: Hurricane Damage Repairs - P&R.PDF

Commissioners:

As requested during our discussions at recent Board meetings, attached is a cover memo and report recently prepared by Jim Liesenfelt and Parks staff outlining damage within the County's park system relating to Hurricane Irma. If the Board approves staff's recommendations as outlined in Mr. Liesenfelt's memo and our mid-year supplement requests, I will be requesting that remaining hurricane related projects outlined in the above referenced report be funded through a temporary loan from the County's Property and Casualty Insurance fund. It is anticipated that for the most part, FEMA reimbursement for these repairs will take up to two and one half years. FEMA reimbursements will be returned to the Property Casualty fund as repayment of this temporary loan upon receipt of those funds. Due to the timeframes needed to bid engineering, design and construction of these projects, staff believes the funds that will be needed to move these projects forward as quickly as possible will be available for temporary use during the loan period. Staff believes the Property Casualty reserve fund will be reimbursed before that fund will need the loaned funds from a cash flow perspective. This Office will be submitting an agenda item requesting the Board's consideration for the temporary loan described herein at an upcoming Board meeting.

Frank

Frank Abbate
County Manager
2725 Judge Fran Jamieson Way, Bldg. C
Viera, FL 32940
PH: (321) 633-2001
FAX: (321) 633-2115

BOARD OF COUNTY COMMISSIONERS

Inter-Departmental/Fund Loan

Parks and Recreation Loan

WHEREAS, The County Insurances Program Internal Service Fund has Property and Casualty Insurance Reserves that are not required for the immediate needs of the County Insurance Program; and

WHEREAS, The Parks and Recreation Department requests loan funding to repair hurricane damage to Parks throughout the County; and

WHEREAS, Policy No BCC-56, Budget and Financial Policies provide for inter-departmental/ fund loans.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree, as follows:

I. **AUTHORIZATION:** The County Insurance Program Internal Service Fund will loan funds to the Parks and Recreation Department. At the request of the Parks and Recreation Department, funds shall be transferred from the County Insurance Program, Property and Casualty Insurance Reserve, to the Parks and Recreation Department's programs operating accounts.

II. **AMOUNT OF LOAN:** $12,000,000.

III. **TERMS AND PAYMENTS:** The initial Principal shall be repaid over a period of up to six (6) years, commencing up to one (1) year after receipt of Federal Emergency Management Agency (FEMA) Hurricane Matthew and Hurricane Irma reimbursement funds. The Parks and Recreation Department shall make annual payments of principal and interest to the County Insurance Fund each year until the loan and interest are repaid.

IV. **INTEREST RATES:** The interest rate the Parks and Recreation Department Fund shall pay on the outstanding Principal shall be the rate of the County Consolidated Investment Earning Rate (CCIER). The amount of the annual interest payment will be calculated based on the average monthly CCIER, as determined by the County Finance Department. It is the specific intent of this agreement that the interest charged to the Parks and Recreation Department shall be equal to the interest income lost by the County Insurance Program Internal Service Fund. Because the CCIER is a variable rate; the amount of the annual payment will vary.

V. **SOURCE OF FUNDS:** The Parks and Recreation Department Program FEMA Hurricane Matthew and Hurricane Irma reimbursement funds shall be the source of funds.

4.24.18

Gerald Visco Date
Human Resources Director

Mary Ellen Donner 4.24.18

Mary Ellen Donner Date
Parks and Recreation Department Director

Construction Manager Contract

This Contract made the day of , 2019 between the **Brevard County Board of County Commissioners**, a political subdivision of the State of Florida whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereinafter referred to as "County"), and **W & J Construction Corporation, 1038 Harvin Way, Suite 120, Rockledge, Florida 32955** (hereinafter referred to as "Contractor"), a company licensed to do business in the State of Florida.

Whereas, the Board of County Commissioners approved the repair of damages to Parks and Recreation facilities at the April 24, 2018 Board meeting; and

Whereas, such repairs include work to be done at the dock at Kiwanis Island Park (hereinafter referred to as the "Project").

Now, Therefore, in consideration of the premises and mutual covenants contained herein, the parties hereby agree, as follows:

Article 1

The Construction Team and Extent of Contract

The Contractor accepts the relationship of trust and confidence established between him and the County by this Contract. The Contractor covenants with the County to furnish the best skill and judgment and to cooperate with **BRPH PLLC** (hereinafter referred to as the "Architect/Engineer") in furthering the interests of the County. The Contractor agrees to furnish efficient business administration and superintendence and use its best efforts to complete the Project in the best and soundest way, and in the most expeditious and economical manner consistent with the interest of the County.

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

The specific representatives of the Construction Team are shown in **Attachment "A"** attached.

1.2 Scope of Work – A general description of the Work/Project to be built/constructed/installed under this Contract is shown in Attachment "B" and may include projects that may be funded or submitted for reimbursement through the Federal Emergency Management Agency (one to two million dollars).

1.3 Definitions

Architect/Engineer – BRPH PLLC, 5700 North Harbor City Blvd, Suite 400, Melbourne, FL 32940.

Contract Documents - Consist of this Contract with attachments, including, but not limited to, Scope of Work, the drawings, the specifications, the Guaranteed Maximum Price, any Conditions of the Contract between the County and the Contractor (General, Special, Supplementary and other conditions), permit conditions, if any, grant specifications, any addenda to the foregoing listed documents and all change orders, amendments or modifications as provided in Article 10, whether or not any of the foregoing listed documents have been attached hereto.

Contractor/Construction Manager – W & J Construction Corporation, 1038 Harvin Way, Suite 120, Rockledge, Florida 32955.

County - Brevard County Board of County Commissioners, (through the Brevard County Parks and Recreation Department), 2725 Judge Fran Jamieson Way, Building B, 2nd Floor, Viera, Florida 32940, (321) 633-2046; facsimile (321) 633-2198. For the purposes of this Contract, the County may also include the County Manager or the Project Director, or their designee(s), with regard to the performance of designated functions and duties specified for each under the terms and provisions of this Contract.

County's Representatives - The Project Director and his/her supervisors and/or designees.

Estimate - The Contractor's latest estimate of probable Project construction cost.

Guaranteed Maximum Price (GMP) - The Guaranteed Maximum Price for the construction of the Project, which shall be subject to adjustments only as provided herein. Guaranteed Maximum Price includes Cost of the Work and Contractor's fee for Construction Phase services. The Guaranteed Maximum Price does include the cost for County direct purchases; however, all County direct purchases will be deducted in one deductive change order in accordance with Attachment "C" (Direct Purchasing Procedure) at the end of the Project.

Permitting Authority - All applicable Federal, State, County and local agencies responsible for permitting and code inspections on projects administered by the County.

Project - The Project is the total work to be performed under this Contract. The Project consists

of planning, design review, permitting, construction (which includes all labor, equipment, material and supervision) and code inspection necessary to build/construct/install and complete the Scope of Work identified in Attachment "B" (Scope of Work).

Project Director - The person designated by the County to provide direct interface with the Contractor with respect to the County's responsibilities. Mike Butcher is the designated Project Director.

Site – Kiwanis Island Park, 951 Kiwanis Island Road, Merritt Island, Florida 32952.

Substantial Completion - The point in the construction where all essential elements of the Project are sufficiently complete in conformance with the Contract, that the County has both the occupancy of the Project, as evidenced by a Certificate of Occupancy issued by the governmental authority with jurisdiction, and the beneficial use of the Project for its intended purpose where only minor "punch list" items, or a written list of unfinished Work and defective work, are required for final completion. Substantial Completion shall not be deemed to have occurred where 1) latent defects are revealed subsequent to use and occupation of the Project by the County; or 2) the scope of substantial defects in workmanship or materials are not readily observable or discoverable when use and occupancy of the Project commenced; or 3) there is a failure to meet grant specifications, if any.

1.4 Extent of Contract - This Contract for Construction Management Services – to provide labor, materials, and equipment for dock replacement and related work at Kiwanis Island Park between the County and the Contractor – supersedes any prior negotiations, representations or agreements, whether oral or written. The drawings, specifications and other descriptive documents defining the work to be included under this construction contract are identified in Attachment "D".

The Contractor shall:

A. obtain from the County three sets of signed, sealed and dated drawings, specifications and other documents upon which the Guaranteed Maximum Price is based;

B. acknowledge on the face of each document of each set that it is the set upon which it based its Guaranteed Maximum Price; and shall send one set of the documents to the Project Director along with its Guaranteed Maximum Price proposal, while keeping one set for itself and returning one set to the Architect/Engineer.

This Contract shall not be superseded by any provisions of the documents for construction and may be amended **only by written instrument signed by both the County and Contractor**.

Article 2

Construction Manager's Responsibilities

Contractor shall perform all services described in this Article. The services to be provided under Subsection 2.1 constitute the Pre-Construction Phase services. The services to be provided under Subsections 2.2 thru 2.9 constitute the Construction Phase services. The parties acknowledge the Construction Phase shall commence before the Pre-Construction Phase is completed, and to a certain extent, when possible, both phases shall proceed concurrently.

2.1 Pre-Construction Phase

2.1.1 Preliminary Evaluation - Contractor shall provide a preliminary evaluation of County's program and Project budget requirements, each in terms of the other.

2.1.2 Consultation – Contractor will provide Design Disciplines Construction Documents Plans and Specifications review at all design milestones and a final constructability review. The review at each milestone will identify areas of omission, overlap, and identify documents to be modified in order to clarify the construction details. The review will also include the coordination and interface of the Contract document's General Conditions, Special Conditions, trade contractor bid packages, and site utilization planning during construction. Reviews shall be completed and comments provided within five business days. As part of the design review, Contractor will provide Value Engineering and construction alternatives for consideration by the County and Architect/Engineer, identifying options for systems and components that are cost effective, more easily maintained, and otherwise more efficient.

Contractor has scheduled and attended, and shall continue to jointly schedule and attend, **weekly** progress meetings (or as otherwise mutually agreed to by the Project Director or Contractor's Project Manager) with County and Architect/Engineer. Contractor has and will continue to consult with County and Architect/Engineer regarding site use and improvements, and the selection of materials, building systems and equipment. Contractor has provided and will continue to provide recommendations on construction feasibility; actions designated to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including, but not limited to, estimates of alternative designs or materials, preliminary budgets and possible economies.

2.1.3 Preliminary Project Schedule – Contractor has prepared a Preliminary Project Schedule, a copy of which is attached as **Attachment "E"**. Contractor shall coordinate and integrate the Preliminary Project Schedule with the services and activities of the County, Architect/Engineer, and Contractor. The Contractor shall provide current scheduling information and provide direction and coordination regarding milestones, beginning and finishing dates,

responsibilities for performance and the relationships of the Contractor's work to the work of its subcontractors and suppliers to enable them to perform their respective tasks so that the development of construction progresses in a smooth, workmanlike, and efficient manner in conformance with the overall Total Project Schedule. The schedule shall include all phases of construction work, material supplies, long lead procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance of testing requirements. The Contractor shall advise the County, its representatives, and the Architect/Engineer of their required participation in any meeting or inspection giving each at least one week notice in writing unless such notice is made impossible by conditions beyond the Contractor's control. The Contractor shall hold jobsite meetings at least once each week with the Construction Team, and at least once each week, or more frequently as required by work progress, with the subcontractors, the Architect/Engineer's field representative(s), and the County to review progress, discuss problems and solutions, and coordinate future work with all subcontractors.

2.1.4 Subcontractors and Suppliers – Contractor shall continue to develop subcontractor interest in the Project and shall furnish to the County and Architect/Engineer for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Project. County will promptly reply in writing to Contractor if the County has an objection to any such subcontractor or supplier. The receipt of such list shall not require the County to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the rights of the County to later object to or reject any proposed subcontractor or supplier.

2.1.5 Long Lead and County Direct Procurement - The Contractor shall review the design for the purpose of identifying long lead and the County direct procurement items (machinery, equipment, materials and supplies). When each item is identified the Contractor shall notify the subcontractors and the County of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected subcontracts. As soon as the Architect/Engineer has completed drawings and technical specifications and the Contractor has obtained permitting approval, the Contractor shall prepare Invitation for Bids. The Contractor shall keep informed of the progress of the respective subcontractors and/or suppliers, manufacturing or fabricating such items and notify the County and Architect/Engineer of any problems or prospective delay in delivery.

2.1.6 Extent of Responsibility - The recommendations and advice of Contractor concerning design alternatives shall be subject to the review and approval of the County and it's professional consultants. It is not Contractor's responsibility to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, building codes, rules and/or regulations. However, if Contractor recognizes that portions of the Drawings and Specifications are at variance therewith, Contractor shall promptly notify County and Architect/Engineer in writing.

2.1.7 Equal Employment Opportunity and Affirmative Action - Contractor shall comply with all applicable laws and regulations, as well as the special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs.

2.1.8 Separate Contracts Planning - The Contractor shall review the design with the Architect/Engineer and make recommendations to the County and to the Architect/Engineer with respect to dividing the work in such manner as will permit the Contractor to take bids and award separate construction subcontracts on the current schedule while the design is being completed. The Contractor shall take into consideration such factors as natural and practical lines of severability, sequencing, effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and costs by overlapping design and construction that are authorized by the County.

2.2 Construction Phase

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

2.2.2 Subcontractor Interfacing - The Contractor shall be the single point of interface with all Subcontractors, the County, and all of its agents and representatives, including the Architect/Engineer. The Contractor shall negotiate all change orders, field orders and request for proposals, with all affected Subcontractors and shall review the costs of those proposals and advise the County and Architect/Engineer of their validity and reasonableness, acting in the County's best interest prior to requesting approval of each change order from the County. Before any work is begun on any change order, an executed Authorization to Initiate Work form from the County must be issued. However, when health and safety are threatened, the Contractor shall act immediately to remove the threat to health and safety. The Contractor shall also carefully review all shop drawings and then forward the same to the Architect/Engineer for review and actions. The Architect/Engineer will transmit them back to the Contractor who will then issue the shop drawings to the affected Subcontractor for fabrication or revision. The Contractor shall maintain a suspense control system to promote expeditious handling. The Contractor shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of the Contractor by the Subcontractors and shall maintain a suspense control system to promote timely response. The Contractor shall advise the Project Director and Architect/Engineer when timely response is not occurring on any of the above.

2.3 Solicitation of Bids

A. Without assuming responsibilities of the Architect/Engineer, the Contractor shall prepare Invitations for Bids (or Request For Proposals, when applicable) for all procurements of long lead times, materials and services for Subcontractor contracts and for site utilities.

B. As part of such preparation, the Contractor shall review the specifications and drawings prepared by the Architect/Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Contractor shall be brought to the attention of the Project Director and Architect/Engineer in written form.

C. For each separate subcontractor or construction trade contract used in this Project, the Contractor shall, unless waived by the County, conduct a pre-bid conference with prospective bidders, the Architect/Engineer and Project Director. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Contractor shall transmit these to the Architect/Engineer and, upon receiving clarification or correction in writing, shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.

D. In accordance with Subsection 2.4.2 herein, the Contractor shall open and review all bids and enter into contract(s) with those low bidders determined to be most qualified by the Contractor. The Contractor shall make every effort to follow the County's Pre-Qualification Ordinance 98-37 **(Attachment "F")** for applicable subcontract trades.

2.4 Bonds - For those projects where the cost will exceed one hundred thousand dollars, in accordance with the provisions of Section 255.05, Florida Statutes, the Contractor shall provide to the County, on forms furnished by the County (**Attachment "G" and "H"**), certified copies of the recorded one-hundred percent Public Construction Performance Bond and one-hundred percent Public Construction Payment Bond each in an amount not less than the total construction cost Guaranteed Maximum Price as defined in Article 9 herein and inclusive of the construction fee. Payment and Performance Bonds shall be recorded (by the Contractor) in the official record of the County in which the Project is located. The Contractor must provide a copy of the bond(s) to all subcontractors and notify them of deadlines to make claims under the bonds.

2.5 Quality Control - The Contractor shall develop and maintain a program, acceptable to the County and Architect/Engineer, to assure quality control of the construction (this may include personnel if approved by the County). The Contractor shall have a qualified and competent superintendent to supervise the work of all Subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and shall continue to exert influence and control over each Subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the Project. Should disagreement occur between the Contractor and Architect/Engineer over acceptability of work

and conformance with the requirements of the specifications and plans, the County shall be the final judge of performance and acceptability.

2.6 Guaranteed Maximum Price and Contract Time

2.6.1 Contractor acknowledges and agrees the Drawings and Specifications are sufficiently complete for Contractor to propose a Guaranteed Maximum Price, which is the total not to exceed the sum of the Contractor's Fee and the Cost of the Project. Accordingly, the Guaranteed Maximum Price is hereby established at **One Hundred Fifty-Eight Thousand Three Hundred Eighty-Eight Dollars**. The final approved Guaranteed Maximum Price spread sheet is hereby attached as **Attachment "I"** to and shall become a part of this Contract between the County and Contractor.

2.6.2 The Cost of the Project shall include Contractor's contingency, a sum agreed to by all parties for the Contractor's use to cover costs arising from unforeseen conditions in the project. Contractor's contingency is hereby established as a separate line item of **Six Thousand Three Hundred Twenty-One Dollars** within the Guaranteed Maximum Price.

2.6.3 Basis of Guaranteed Maximum Price - The Guaranteed Maximum Price, herein established is based upon the following:

A. The list of the Drawings and Specifications, including all addenda thereto, and the Conditions of the Contract, which are identified in the Attachments to this Contract.

B. The list of clarifications and assumptions made by Contractor in the preparation of its Guaranteed Maximum Price proposal to supplement the information contained in the Drawings and Specifications.

C. The Preliminary Construction Schedule **(Attachment "E")**. As reflected in said Schedule, Contractor is to achieve Substantial Completion of the Work within **Ninety Days** from issuance of Notice to Proceed. Final Completion shall be achieved within an additional **Fifteen Days**.

2.6.4 Included within the Guaranteed Maximum Price is the Contractor's fee. The Contractor's Fee is hereby established as **Thirteen Thousand Seventy-Eight Dollars** for services provided in this Contract. The sum of the Cost of the Project and the Contractor's Fee shall not exceed the Guaranteed Maximum Price. The Contractor's Fee shall constitute Contractor's total compensation for profit. All costs in excess of the final approved Guaranteed Maximum Price (as reduced by County direct purchases, if any, in accordance with **Attachment "C"**) are the responsibility of the Contractor. **Any savings between the Guaranteed Maximum Price (as reduced by County direct purchases) and the sum of the actual cost of the Project plus the Contractor's fee will be returned to the County**.

2.6.5 Prior to issuance of the Construction Phase Notice to Proceed, Contractor shall not incur any costs to be reimbursed as part of the Cost of the Project, except as County may specifically authorize in writing.

2.6.6 The Guaranteed Maximum Price and date of Substantial Completion shall be subject to additions and deductions by a Change Order as provided in the Contract Documents.

2.6.7 The Guaranteed Maximum Price shall include in the Cost of the Project only those taxes which are enacted and in effect at the time the Guaranteed Maximum Price was determined.

2.7 Construction Phase

2.7.1 General - The Construction Phase shall commence on the date identified in the Notice to Proceed to be issued by the County. The Contractor shall cause all Work required by the Contract Documents to be properly completed in accordance with the terms of the Contract Documents and within the Contract Time.

2.7.2 Contractor's Staff - The Contractor shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Contractor and to coordinate, inspect and provide general direction of the work and progress of the subcontractors, and the Contractor shall provide no less than those personnel during the respective phases of construction. The Contractor shall not change any of those designated persons unless mutually agreed to by the County and Contractor. In such case, the County shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.

2.7.2.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor.

2.7.2.2 The Contractor's superintendent shall be in attendance at the Project site not less than eight hours per day, five days per week, and any time work is being performed at the jobsite, unless the job is closed down due to a general strike or conditions beyond the control of the Contractor or until completion or termination of the Contract. It is understood that such superintendent shall be acceptable to the County and the Architect/Engineer, and shall be the one who will continue in that capacity for the duration of the Project, unless the County otherwise agrees. The superintendent shall not be employed on any other project for or by Contractor or any other entity during the course of the work.

2.7.3 Lines of Authority - The Contractor shall establish and maintain lines of authority for its personnel, and shall provide this description/definition to the County and all other affected

parties such as the code inspectors of the permitting authorities, the subcontractors, the Architect/Engineer and the County's representatives, to provide general direction of the work and progress of the various phases and subcontractors. The County and the Architect/Engineer may attend meetings between the Contractor and subcontractors, however, such attendance shall not diminish either the authority or responsibility of the Contractor to administer the subcontractor.

2.8 Administration

2.8.1 Those portions of the Project that Contractor does not customarily perform with Contractor's own personnel shall be performed under subcontracts or by other appropriate written contracts with Contractor. Contractor shall obtain bids from subcontractors and from suppliers of materials or equipment fabricated to a special design for the Project from the list previously reviewed and, after analyzing such bids, shall deliver such bids to the County and Architect/Engineer for review and comment. Based upon that review and comment, Contractor shall then determine, subject to the reasonable objection of the Architect/Engineer or County, which bids will be accepted. Contractor shall not be required to contract with anyone to whom Contractor has reasonable objection. Notwithstanding anything herein to the contrary, Contractor covenants and agrees that it shall competitively bid all subcontracts. Further, with respect to all such subcontracts, Contractor covenants and agrees that it shall select and contract with the lowest, responsive and qualified bidder, unless otherwise consented to in writing by the County.

2.8.2 Subcontracts and contracts with suppliers furnishing materials or equipment fabricated to a special design shall conform with payment provisions and shall not be awarded on the basis of cost plus a fee without prior written consent of County.

2.8.3 Contractor shall schedule and conduct weekly meetings, at a minimum, at which County, Architect/Engineer, Contractor and appropriate Subcontractors can discuss the status of the Project. Contractor shall prepare and promptly distribute meeting minutes within two business days after any such meeting is held.

2.8.4 Promptly after County's issuance of the Notice to Proceed, Contractor shall prepare a more detailed Project Schedule, based upon the preliminary Project Construction Schedule attached as Attachment "E", including the County's occupancy requirements. Contractor will submit monthly updates to the Schedule until the Project is completed.

2.8.5 Contractor shall provide Monthly Written Reports to the County on the progress of the entire Project. Contractor shall maintain a daily log containing a record of weather, subcontractors working on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the County may require. The log shall be available to the County at all times.

2.9 Professional Services - Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering, unless such services are specifically required by the Contract Documents for a portion of the Project or the Contractor has specifically agreed in writing to provide such services. In such event, Contractor shall cause such services to be performed by appropriately licensed professionals.

2.10 Unsafe Materials - If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered but not created or brought on the site, Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the County and Architect/Engineer in writing. County shall be responsible for obtaining the services of a licensed laboratory to verify the presence or absence of the material or substance reported by Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

In accordance with Section 255.40, Florida Statutes, the County will require that the Contractor certify, upon Project Completion, that to the best of its knowledge and ability no asbestos-containing materials and/or supplies have been purchased and/or installed on this Project.

2.11 Weather Protection - The Contractor shall be responsible to ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. All costs associated with this shall be the responsibility of the Contractor.

2.12 Job Site Requirements

A. The Contractor shall provide for each of the following activities as a part of the Contractor's Construction Phase services:

1. Maintain a log of daily activities, including, but not limited to, manpower records, weather, delays, and major decisions, and require the same of subcontractors.
2. Maintain a directory of companies on the Project with names, addresses, telephone numbers, emergency telephone numbers and fax numbers of key personnel.
3. Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.
4. Provide labor relations management for a harmonious, productive Project.
5. Provide a safety program for the Project to meet safety standards, including, but not limited to, Occupational Safety and Health Administration requirements.
6. Monitor for subcontractor compliance without relieving them of responsibilities to perform work in accordance with the best acceptable practice.

7. Provide a quality control program.
8. Miscellaneous office supplies that support the construction efforts which are consumed by its own forces.

2.13 Job Site Administration - The Contractor shall provide as part of the Contractor's Construction Phase services, administrative functions during construction, including but not limited to, the following:

A. Job Meetings - Hold weekly progress and coordination meetings to provide for an easy flowing Project. Implement procedures and assure timely submittals, expedite processing approvals and return of shop drawings, samples, etc. Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing, labor allocations, etc. Review and coordinate each Subcontractor's work. Review and implement revisions to the Schedule. Monitor and promote safety requirements.

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

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

B. Shop Drawing Submittals/Approvals - Check Shop Drawings and implement procedures for submittal and transmittal to the Architect/Engineer of such drawings for action, and closely monitor their submittal and approval process. Provide copy of all correspondence to the County. Contractor shall provide one approved Submittal or Shop Drawing to the County.

C. Material and Equipment Expediting - Closely monitor material and equipment deliveries; implement inspection and follow-up procedures on commitments of all Suppliers and Subcontractors.

D. Payments to Subcontractor - Develop and implement a procedure for review, processing, and payment of applications by Subcontractors for progress and final payments.

E. Document Interpretation - Refer all questions for interpretation of the documents prepared by the Architect/Engineer to the Architect/Engineer.

F. Reports and Project Site Documents - Record the progress of the Project. Submit written progress reports to the County and the Architect/Engineer including information on the Subcontractor's work, and the percentage of completion. Keep a daily log available to the County, the Architect/Engineer and the Permitting Authority inspectors.

G. Substantial Completion - The Contractor shall secure the Certificate of Occupancy and

notify the County and Architect/Engineer, in writing, that the Project will be ready for inspection to determine if it is substantially complete and ready for inspection on or after a specific date, which date shall be stated in the notice. The notice shall be given at least seven days in advance of said date. Inspection and testing shall take place at time(s) mutually agreeable to the Contractor, Architect/Engineer and County. The inspection will be conducted jointly between the Architect/Engineer, County and Contractor's representative. The inspection shall determine if substantial completion has been accomplished and the Architect/Engineer shall produce a Certificate of Substantial Completion (Attachment "J") and a written list of unfinished Work and defective work, commonly referred to as a "Punch List", which must be finished and corrected to obtain final completion.

At the County's option a specific area or segment of the Project may be inspected and/or determined substantially complete.

H. **Final Completion -** The Contractor shall notify the Architect/Engineer and County, in writing that the Project will be ready for final inspection on or after a specific date, which date shall be stated in the notice. This notice shall be given at least seven days in advance. That inspection and any necessary testing shall be conducted in the same manner as the inspection for Substantial Completion. When the Project is finally and totally complete, including the elimination of all defects, a Certificate of Final Completion (**Attachment "K"**) will be issued by the Architect/Engineer and the Project shall be submitted to the County for final acceptance.

The County and Architect/Engineer shall conduct the inspections. The County may elect to have other persons of its choosing also participate in the inspections. If one or more re-inspections are required, the Contractor shall reimburse the County for all costs of re-inspection or, at the County's option, the costs may be deducted from payments due to the Contractor. The Total Project Schedule shall include these notices and inspections as activities.

The Contractor shall secure and transmit to the Architect/Engineer all required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings, and maintenance books as part of final completion (in triplicate) unless stated otherwise in the Project specifications.

I. **Start-Up -** With the County's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the subcontractors.

J. **Record Drawings -** The Contractor shall monitor the progress of Work on marked-up field prints which, at Substantial Completion, shall be submitted to the Architect/Engineer who will prepare the final record drawings.

K. **Administrative Records -** The Contractor will maintain at the job site on a current basis, files and records such as, but not limited to the following:

1. Contracts and Purchase Orders
2. Shop Drawing Submittal/Approval
3. Logs Equipment
4. Purchase/Delivery Logs
5. Contract Drawings and Specifications with Addenda
6. Cost Proposal Requests
7. Meeting Minutes
8. Lab Test Reports
9. Contract Changes
10. Material Purchase Delivery Logs
11. "As-Built" Marked Prints
12. Monthly Progress Reports
13. Correspondence
14. Files Transmittal Records
15. Inspection Reports
16. Punch Lists

The Project records shall be available at all times to the County and Architect/Engineer for reference or review.

L. **County Occupancy -** The Contractor shall provide services during the Construction Phase which will provide a smooth and successful County occupancy of the Project. The Contractor shall provide consultation and project management to facilitate County occupancy and provide transitional services to get the work, as completed by the contractors "on line" in such conditions as will satisfy County operational requirements.

The Contractor shall conduct the Contractor's preliminary punch list inspection and coordinate the completion of all punch list work to be done with County occupancy requirements in mind.

The Contractor shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey these to the County in such a manner as to promote their usability (in triplicate). The Contractor shall provide operational training, in equipment use, for building operators to a maximum of eight hours.

The Contractor shall secure required guarantees and warranties, assembled and organized (in a binder) and deliver same, in triplicate, to the County in a manner that will facilitate their maximum enforcement and assure their meaningful implementation.

The Contractor shall continuously review "As-Built" Drawings and mark-up progress prints to provide as much accuracy as possible.

M. Warranty - Where any work is performed by the Contractor's own forces or by Subcontractors under contract with the Contractor, the Contractor shall warrant that all materials and equipment included in such Work will be new except where indicated otherwise in Contract Documents, and that such Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Drawings and Specifications. With respect to the same Work, the Contractor further agrees to correct all work found by the County to be defective in material or workmanship or not in conformance with the Drawings and Specifications for a period of one year from the Date of Final Completion or as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Contractor shall collect and deliver to the County any specific written warranties given by others as required by the Contract Documents. Also, the Contractor shall conduct, jointly with the County and the Architect/Engineer, a warranty inspection nine months after the date of County Occupancy. This warranty inspection will be scheduled by a representative of the County.

Article 3

County's Responsibilities

3.1 County's Information - The County shall provide full information regarding County's requirements for the Project.

3.2 County's Representative/Project Director - The County shall designate a representative who shall be fully acquainted with the Project and shall define the lines of County authority to approve Project Construction Budgets, and changes in Project. The County's representative shall render decisions promptly and furnish information expeditiously.

3.3 Architect and Engineer's Contract - The County shall retain an Architect/Engineer for design and to prepare construction documents for the Project. The Architect/Engineer's services, duties and responsibilities are described in the Contract between the County and the Architect/Engineer, a copy of which will be furnished to the Contractor upon request.

3.4 Approvals and Easements - The County shall pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.5 Legal Services - The County shall furnish such legal services as may be necessary for providing the items set forth in Article 3 and such auditing services as the County may require.

Drawings and Specifications - The County will provide to the Contractor a reproducible set of all drawings and specifications reasonably necessary and ready for printing.

3.6 Cost of Surveys & Reports - The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the County's expense, and the Contractor shall be entitled to rely upon the accuracy and completeness thereof.

3.7 Project Fault or Defects - If the County becomes aware of any fault or defect in the Project or non- conformance with the drawings and specifications, the County shall give prompt written notice thereof to the Contractor and Architect/Engineer.

3.8 Funding - The County shall furnish, in accordance with the established schedule, reasonable evidence satisfactory to the Contractor that sufficient funds will be available and committed for the cost of each part of the Project.

3.9 Lines of Communication - The County and Architect/Engineer shall communicate with the Subcontractors or Suppliers only through the Contractor while such method of communication is effective in maintaining Project schedules and quality.

3.10 Lines of Authority - The County shall establish and maintain lines of authority for County's personnel and shall provide this definition to the Contractor and all other affected parties.

3.11 Permitting & Code Inspections - The County recognizes and coordinates with the Permitting Authority and expects the Contractor to do the same.

Article 4

Permitting and Inspection

4.1 Permits, Fees and Notices - Unless otherwise provided in the Contract Documents, the Contractor shall secure and the County shall pay for any Brevard County building permit or other County permits and governmental fees and licenses necessary for proper execution of the Contract and which are legally required. Any other entity/jurisdiction permits (i.e.: City of Titusville, City of Melbourne, etc.) shall be included in the Guaranteed Maximum Price and secured and paid for by the Contractor. County Impact and Solid Waste fees will also be paid by the County. Copies of all permits shall be submitted to the County.

4.2 The Contractor shall comply with, and give notices required by, any law, ordinance, rule or regulation and lawful orders of public authorities bearing on performance of the work required for the Project.

4.3 It is not the County's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, and such variance was not discoverable during the Contractor's review of these documents for the purpose of determining the Guaranteed Maximum Price, the Contractor shall promptly notify the Architect/Engineer and County, in writing, and necessary changes shall be accomplished by appropriate modification.

4.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect/Engineer and County, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs and liability

Article 5

Subcontracts

5.1 Definition - A subcontractor is a person or organization who has a direct contract with the Contractor to perform any of the work. Nothing contained in the Contract Documents shall create any contractual relation between the County or Architect/Engineer and any Subcontractor.

5.2 Bids/Proposals - The Contractor shall request and make every attempt to receive, at a minimum, three bids/proposals from subcontractors and suppliers and will award those contracts to the most qualified and responsive low bidder after the Contractor and County have reviewed each bid/proposal and agree that the subcontractor is qualified to perform the work.

5.3 Required Subcontractor and Subcontract Conditions

5.3.1 Sub-contractual Relations - By an appropriate written contract, the Contractor shall require each Subcontractor to the extent of the work to be performed by the subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor by this Contract, assumes toward the County and the Architect/Engineer. Said contracts shall preserve and protect the rights of the County and Architect/Engineer under the Contract Documents with respect to the work to be performed by the subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with its subcontractor's subcontractor.

The Contractor shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Subsection 5.3 and identify to the subcontractor any terms and conditions of the proposed

subcontract which may be at variance with the Contract Documents. Each subcontractor shall similarly make copies of such Documents available to its sub-subcontractor.

A. Subcontractors shall submit a complete pre-qualification form demonstrating their work experience, financial condition, and adherence to schedule. The subcontractors financial condition must demonstrate that adequate fixed and liquid assets and equipment are available to properly perform the subcontract.

B. Workforce - The subcontractor must agree to perform no less than fifty percent of the Project construction work utilizing its own forces.

C. All subcontracts shall provide:

1. **Limitation of Remedy – No Damages for Delay:** That the subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the County or Architect/Engineer or attributable to the County or Architect/Engineer, and including claims based on breach of contract or negligence, shall be an extension of its contract time.
   In the event of a change in the work the subcontractor's claim for adjustments in the contract sum are limited exclusively to its actual cost for such change, plus, no more than five percent for profit, and five percent for overhead.

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

2. Each subcontract shall require that any claims by a subcontractor for delays or additional cost must be submitted to Contractor within the time and in the manner in which the Contractor must submit such claims to the County, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

5.4 Responsibilities for Acts and Omissions - The Contractor shall be responsible to the County for the acts and omissions of its employees and agents and its subcontractors, agents and employees, and all other persons performing any of the work or supplying materials under this contract to the Contractor.

Article 6

Schedule, Time of Commencement and Substantial Completion

6.1 At the time a Guaranteed Maximum Price is established, as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date and a County Occupancy Date for completion of the Project in accordance with the master Project schedule, shall also be established by the Construction Team. The Contractor agrees to complete the construction in accordance with the agreed upon Substantial Completion Date, Final Completion Date and County Occupancy Date. The Contractor acknowledges that failure to complete the Project within the construction time set forth in the approved schedule will result in substantial damages to the County.

It is specifically agreed by and between the parties that the County may deduct a sum in the amount scheduled below from the amount of compensation to be paid to the Contractor, Sundays and Holidays included, that the Project remains uncompleted. This amount as scheduled and agreed upon as a proper measure of liquidated damages, which the County will sustain per day by failure of the Contractor to complete the Project by the time stipulated in this Contract, is not to be construed in any sense as a penalty provision nor as the County's sole remedy.

Project Substantial Completion	Five Hundred Dollars per day
Project Final Completion	Two Hundred Fifty Dollars per day

Liquidated Damages will be assessed for each day beyond the contracted project Substantial Completion date, until actual project Substantial Completion is achieved. From the date of Substantial Completion, the Contractor shall be granted thirty days for completion of punch list items, associated inspections and approvals, and submission and approval of required closeout documentation, at which time Final Completion shall be obtained. Final Completion liquidated damages will be assessed for each day beyond the thirty-day period from actual Substantial Completion.

6.2 The date of County Occupancy shall occur as described in Subsections 2.9(7) and 1.3, hereinabove. Warranties called for by this Contract or by the Drawings and Specifications shall commence on the Date of Final Completion of the Project unless specified otherwise in the Project Specifications.

Article 7

Guaranteed Maximum Price for Construction

7.1 The Contractor shall establish and submit in writing a Guaranteed Maximum Price to the County for its approval, guaranteeing the maximum price to the County, for the construction cost of the Project or designated part thereof, based on a review of the contract drawings and specifications. Such Guaranteed Maximum Price will be subject to increase or deduction for changes in the Project as provided in Article 10 and for County direct purchases, if any, in accordance with **Attachment "C"**. All costs in excess of the final approved Guaranteed Maximum Price, as adjusted up or down in accordance with the terms of this Contract, are the responsibility of the Contractor. Any savings between the Guaranteed Maximum Price, as adjusted, and the sum of the actual cost of the Project plus the Contractor's fees, will be returned to the County. The Guaranteed Maximum Price includes all taxes in the Cost of the Project which were legally enacted and in effect at the time the Guaranteed Maximum Price was established.

7.2 County-Direct Purchases - In the event the County opts to make County Direct Purchases, as outlined in **Attachment "C"**, the Guaranteed Maximum Price shall be reduced by the cost of the materials plus applicable sales tax so that all sales tax savings accrue to the benefit of the Project contingency. The Contractor shall diligently process all County Direct Purchase invoices for the project in order for the County to benefit from applicable vendor discounts. The Contractor shall be required to submit all invoices to County in sufficient amount of time in order for the project to benefit from the vendor discount. All costs associated with missed discounts by the Contractor shall be deducted from the Contractor's contract via deductive change order at Project completion. The County reserves the right to waive the Contractor's responsibility for missing discounts.

7.3 At the time of execution of this Contract, the Contractor shall verify the time schedule for activities and work which is adopted by the Construction Team and used to determine the Contractor's cost of work. Surplus funds from bids received below the applicable line items, including line items within the General Conditions, in the Guaranteed Maximum Price will be set aside for contingency. Construction contingency funds will be used for the purpose of defraying the expenses due to unforeseen circumstances relating to construction. The Contractor shall be required to furnish documentation evidencing expenditures charged to this contingency prior to the release of funds by the County. Documentation for use of the Contingency shall be determined by the Construction Team. The Architect/Engineer and County shall verify and approve the actual costs.

If bids are received above the applicable line item in the Guaranteed Maximum Price the deficiency will be taken from the contingency via an approved Authorization to Initiate Work/Guaranteed Maximum Price Realignment form; however, such events shall not be cause

to increase the Guaranteed Maximum Price. If bids are not received for a portion of the work at or below the applicable line item amount in the Guaranteed Maximum Price, the Contractor reserves the right to perform that portion of the work or negotiate for its performance for the specified line item lump sum amount or less.

Article 8

Construction Manager's Fee

8.1 In consideration of the performance of the Contract, the County agrees to pay the Contractor, as compensation for its services, fees as set forth in Subsections 8.2 and 8.3 subject to the retainage provisions specified in the Contract.

8.2 Construction Phase Fee - Prior to commencement of the Construction Phase, the County will direct the Contractor in writing to proceed into the Construction Phase. The County retains the right to review the need and effectiveness of any employee or employees assigned by the Contractor, should the Project Director question the need for the employee or employees. A percentage of the agreed upon Construction Phase Fee shall be paid monthly based on percentage of work completed, less retainage, in accordance with Subsection 12.1 below. The Contractor's first monthly Certificate for Payment shall be submitted no earlier than thirty days following the issuance of the Notice to Proceed, and the final monthly payment shall be paid only when construction of the Project is finally completed, all original, final release of liens are received, closeout documentation has been submitted and occupancy of the Project accepted by the County. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the County.

A. Adjustments in Fee - For changes in the Project as provided in Article 10, the Construction Phase fee shall be adjusted as follows:

1. The Contractor shall be paid an additional fee subject to negotiation if the Contractor is placed in charge of reconstruction of an insured or uninsured loss excluding any condition that may have been caused from negligent acts by the Contractor, subcontractors or others for whose acts the Contractor is responsible.

B. Costs and Expenses Included in Contractor's Construction Phase Fee - The following are included in the Contractor's fee for services during the Construction Phase and are included in the Guaranteed Maximum Price (See Attachment "L" for Allowable Costs, Overhead associated with the Contractor's Construction Phase Fee referenced in Article 8):

1. Corporate costs including expenses and overhead and profit-related to this Project by the Contractor's principal and branch offices.

2. Costs of all data processing, accounting, purchasing and associated staff which is

performed at the home office.

3. General operating expenses incurred in the management and supervision of the project, except as expressly included in Article 9.

4. Salaries or other compensation of the Contractor's employees at Contractor's principal and branch offices.

5. Those services set forth in Subsections 2.1, 2.2, 2.3 and 2.4; except as expressly included in Article 9.

6. Relocation expenses for Contractor's personnel.

7. Costs of all project estimating, safety, scheduling and accounting staff.

8.3 The Contractor shall establish and submit in writing to the County for its approval a Guaranteed Maximum Price, guaranteeing the maximum price to the County, for the construction cost of the Project or designated part thereof, based on a review of the contract drawings and specifications. Such Guaranteed Maximum Price will be subject to modification for changes in the Project as provide in Article 10. However, the actual price paid for the Work by the County shall be:

A. the Cost of the Project as defined in Article 9, plus the Contractor's fees, or

B. the Guaranteed Maximum Price, whichever is less, when the Work is complete. All costs in excess of the final approved Guaranteed Maximum Price are the responsibility of the Contractor

Article 9

Cost of the Project

9.1 Definition - The term "Cost of the Project" shall mean costs reasonably and necessarily incurred in the Project during the Construction Phase for construction services and paid by the Contractor which are included in the Construction Phase Fee, less County direct purchases made in accordance with **Attachment "C"** upon completion of the Project. Such costs shall include the items set forth below in this Article, and shall also include, but are not limited to, those set forth in **Attachment "M"** - "Allowable General Conditions".

The County agrees to pay the Contractor for the Cost of the Project subject to the limits set forth in Subsections 9.2 and 9.3 plus the Contractor's fees stipulated in Article 8, provided the total does not to exceed the Guaranteed Maximum Price.

9.2 Direct Cost Items - (**See Attachment "M"** - "Allowable General Conditions")

A. Labor wages paid for the on-site Project superintendent directly responsible for the operation and supervision of the project, clerical and quality control personnel (as opposed to wages paid to management or supervisory personnel who are not part of the on-site project management) in the direct employ of the Contractor in the performance of the Contractor's work under this Contract, acceptable salary or wage schedules and such fringe benefits, if any, as may be payable with respect thereto (labor burden not to exceed forty percent for payroll and fifteen percent for per diem).

B. Payments due to subcontractors from the Contractor or made by the Contractor to subcontractors for their work performed pursuant to contract under this Contract.

C. Cost of the premiums for insurance above and beyond the minimum required by Brevard County (One million dollars) and cost of premiums for bonds which the Contractor is required to procure by this Contract specifically for the construction of this Project.

D. Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by a governmental authority, and for which the Contractor is liable. No costs shall be paid by the County to the Contractor for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the Plans and Specifications or to correct any deficiency or damage caused by negligent acts by the Contractor.

E. If approved by the County, the Contractor, when qualified, may self- perform all or a portion of the work for any item listed on the estimate or Guaranteed Maximum Price breakdown where it is deemed advantageous due to schedule or economic benefit for the direct cost of the work.

F. Legal costs reasonably and properly resulting from prosecution of the Project for the County, including handling claims for changes by subcontractors and vendors, subject to the following limitations:

1. The County approved incurring such costs in advance, which approval shall not be unreasonably denied; and

2. The legal costs were not incurred as result of the Contractor's own negligence or default.

G. Costs for such temporary facilities during construction, as approved by the County, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software.

9.3 Allowances

Within the Guaranteed Maximum Price, there may be specific items which the Contractor and County have agreed to include as allowances in the estimates until such time as the cost and

schedule impact of these items can be more specifically ascertained. At the time that the Costs of the Work of allowance items becomes known (either through a subcontract price or by virtue of either (A) scope of work and cost agreed to by Contractor and County or (B) an actual buyout of the item), the Guaranteed Maximum Price and Scheduled Completion Date will be adjusted (either increased or decreased) by the actual Costs of the Work and schedule impact of the item. With respect to increases and decreases to the amount of an allowance item, Contractor shall be entitled to the Contractor's fee, subject to the limits set forth in Article 8, on the adjusted amount of such allowance, and the Guaranteed Maximum Price shall be adjusted by reason thereof, by Change Order. Allowances must be agreed to by both parties. Allowances included within the Guaranteed Maximum Price constitute approval of said allowances at the time the Guaranteed Maximum Price is approved.

9.4 Public Records Law and Audit Requirements

In the performance of this Contract, the Contractor shall keep books, records and accounts of all activities related to the Contract in compliance with generally accepted accounting procedures and in compliance with the Public Records Laws of the State of Florida (Including, but not limited to Chapter 119, Florida Statutes).

All records or documents created by Contractor or provided to Contractor by the County in connection with the activities or services provided by Contractor under the terms of this Contract, are public records and Contractor agrees to comply with any request for such public records or documents made in accordance with Chapter 119, Florida Statutes.

Records, documents, books and accounts ordinarily and necessarily required for the performance of this Contract shall be kept, maintained and open for inspection by the County, County's representative, and members of the public during regular business hours.

The Contractor shall provide the public with access to public records on the same terms and conditions that the public agency provides the records and at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law (see also County Administrative Order, AO-47).

The Contractor shall also ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by Contractor in the United States or any other country.

The Contractor shall meet all requirements for retaining public records and shall transfer, at no cost, to the County all public records in possession of the Contractor upon termination of the

contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County.

Failure to comply with the provisions of Subsection 9.4, shall result in the County taking enforcement action against the Contractor including the cost to the County for gaining the Contractor's compliance which will include, but are not limited to, the gross hourly rate of the County's employee(s) contacts to the Contractor to obtain compliance with this section, litigation filing fees and attorney's fees.

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide Public Records relating to this contract, contact the custodian of Public Records at (321) 633-2046 or 2725 Judge Fran Jamieson Way, Building B, Suite 203, Viera, Florida 32940.

Article 10

Changes in the Project

10.1 Change Orders - The County, without invalidating this Contract, may order changes in the Project within the general scope of this Contract consisting of additions, deletions or other revisions which may cause an increase or decrease in the Guaranteed Maximum Price and/or the Construction Completion Date. All changes in the Project Guaranteed Maximum Price or Construction Completion Date not covered by an authorized contingency, as described in Subsection 7.3, must be authorized by a written Change Order or Construction Change Directive, and signed by the County, Architect/Engineer and Contractor before the change is implemented. It shall be the County's discretion as to whether each change order requires the Architect/Engineer's signature. **Maximum allowable mark-up on any change order is five percent Profit, five percent Overhead, and a two percent Bond.**

10.1.1 A Construction Change Directive is a change directive signed by the Project Director and the County Manager directing an addition, deletion, or revision in the scope of work and/or schedule. The Construction Change Directive is necessary when no Contract exists among the Architect/Engineer of record, the County, and the Contractor on the dollar amount of a necessary change in the scope of work and/or an extension of time to the construction contract. The Construction Change Directive is used:

A. when an unsafe, hazardous or other similar condition exists

B. when failure to achieve prompt resolution of the change will result in a demobilization of the Contractor, its subcontractors and/or agents

C. when failure to achieve prompt resolution will result in additional cost, and/or a significant delay in completing the project.

A Construction Change Directive does not change the contract price or the contract time, but is evidence that the parties expect that the change will be incorporated in a subsequently issued Change Order or be covered by an authorized contingency.

10.1.2 A Change Order is a written order to the Contractor signed by the County, Architect/Engineer, and Contractor, issued after the execution of this Contract, authorizing a change in the Project and/or an adjustment in the construction authorization, the Contractor's fee, or the Construction Completion Date. Each adjustment in the Guaranteed Maximum Price resulting from a change order shall be documented clearly to separate the amount attributable to the cost of the change in the Project from the original cost of the Project.

10.1.3 The increase or decrease in the Guaranteed Maximum Price resulting from Change Orders in the Project shall be determined by one of the following ways:

A. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect/Engineer and County;

B. by unit prices stated in the Contract or subsequently agreed upon;

C. by cost as defined in Article 9 plus a mutually acceptable fixed or percentage fee; or

D. by the method provided in Subsection 10.1.4.

10.1.4 If none of the methods set forth in Subsection 10.1.3 above can be agreed upon, the Contractor, provided it receives a written order signed by the County, shall promptly proceed with the work required by the Construction Change Directive involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. However, in the event a Change Order is issued under these conditions, the Architect/Engineer will establish an estimated cost of the work and the Contractor shall not perform any work whose cost exceeds that estimate without prior written approval by the County. In such case, and also under Subsection 10.1.3 above, the Contractor shall keep and present, in such forms as the County may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Project as outlined in Article 9. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Contractor to the County for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease in the Cost of the Project and the Contractor's fee subject to the limits set forth in Article 7.

10.1.5 If unit prices are stated in the Contract or subsequently agreed upon and if the quantities originally contemplated are so changed in a proposed Change Order that application of the

agreed unit prices to the quantities of Work proposed will cause substantial inequity to the County or the Contractor, the applicable unit prices and Guaranteed Maximum Price shall be equitably adjusted.

10.1.6 In the event the Contractor or its contracted subcontractors encounter the following:

A. concealed conditions in the performance of the Work below the surface of the ground; or

B. concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Drawings, Specifications, or County furnished information; or

C. unknown physical conditions below the surface of the ground; or

D. concealed or unknown conditions in an existing structure of an unusual nature;

E. differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, then the Guaranteed Maximum Price and the Construction Completion date shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Subsection 10.2. and Article 11.

Upon discovery of the above concealed or unknown conditions, the Contractor shall notify the County and Architect/Engineer within twenty-four hours of discovery, and not proceed with Work until such notice has been given and a response is issued by the County. The Architect/Engineer will evaluate the alleged unknown or concealed condition and, if warranted, recommend to the County that the Guaranteed Maximum Price and schedule be increased or decreased accordingly. No claim under this Article may be made unless notice, as herein provided, is given prior to Work being performed. No equitable adjustment shall be permitted if this notice provision is not complied with.

Within ten days of submitting its Notice, the Contractor shall submit to the County its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected. Within thirty days from Notice, the Contractor shall submit detailed schedule impact and detailed cost analysis indicating quantities, unit prices, etc.

10.1.7 The Contractor shall review any County directed change and shall respond in writing within seven days after receipt of the proposed change (or such other reasonable time as the County may direct), stating the effect of the proposed change upon the Contractor's Work, including any increase or decrease in the contract time or price. The Contractor shall furnish to the County an itemized breakdown of the quantities and prices used in computing the change in Contract price.

The County and Architect/Engineer shall review the Contractor's proposal and respond to the Contractor within seven days of receipt. If a change to the Contract price and time for

performance are agreed upon, both parties shall sign the Change Order. Changes to the Contract time and/or price shall be effective when signed by both parties. It shall be the County's discretion as to whether each change order requires the Architect/Engineer's signature.

10.2 Claims for Additional Cost or Time

All claims for additional cost or time shall be made by request for a change order submitted as provided in Article 16.

10.2.1 If the Contractor is delayed at any time in the progress of the work by any act or neglect of the County or the Architect/Engineer or of any employee of either or by any separate Contractor employed by the County or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control or by delay authorized by the County pending resolution or disputes, and such delay extends the completion date, the Substantial Completion shall be extended by Change Order for such reasonable time as the Construction Team may determine.

10.2.2 All change orders must indicate that the Contract Time for Completion is not changed or is either increased or decreased by a specific number of days. The previous Time for Completion and, if there is one, the new Time for Completion must be stated. The Contractor must provide written justification for an extension of the Time for Completion to the Architect/Engineer and to the County. The written justification must demonstrate an anticipated actual increase in the time required to complete the Work beyond that allowed by the Contract as adjusted by prior change orders or amendments to the Contract, not just an increase or decrease in the time needed to complete some portion of the total Work. No increase to the Time for Completion shall be allowed unless the additional or changed Work increases the length of the critical path. Approved increases in time required to complete the Work shall be added to the Time for Completion. Decreases in time as a result of the change order shall be demonstrated by a decrease in the critical path of the Work if Construction Project Manager scheduling is properly used and updated by the Contractor. If no Construction Project Manager is used, the County shall determine the appropriate decrease by the best means possible. Approved decreases in the time needed to complete the Work shall be deducted from the Contract completion date. The change to time and Contract price allowed by each change order shall include all time and monetary impacts of the change, whether the change order is considered alone or with all other changes during the course of the project. Failure to include a change to time and Contract price in a change order shall waive any change to the time and Contract price unless the parties mutually agree in writing to postpone a determination of the change to time and price resulting from the change order. Such a determination may be postponed not more than forty-five days to give the Contractor an opportunity to demonstrate a change in the time and price needed to complete the Work.

Only delays which are determined to extend the critical path for the schedule for constructing

the Project will result in a time extension. Neither the County nor the Contractor shall be considered to own the schedule float time.

10.3 Minor Changes in the Project (Realignment of Work)
The County and/or Architect/Engineer will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Construction Completion Date and not inconsistent with the intent of the Drawings and Specifications. Such changes shall be affected by written order. Documentation of changes shall be determined by the Construction Team, and included in the Project Manual. Changes shall be approved by the Project Director or Architect/Engineer. It shall be in the County's discretion as to whether a Realignment of Work requires the Architect/Engineer's signature. All changes or realignments of work performed within the Guaranteed Maximum Price will not include overhead, profit or General Condition additional costs, since costs are absorbed within the Guaranteed Maximum Price. In any emergency affecting the safety of persons or property, the Contractor shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Price or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 10

Article 11

Discounts

11.1 All discounts for prompt payment shall accrue to the County to the extent the Cost of the Project is paid directly by the County or from a fund made available by the County to the Contractor for such payments.

To the extent the Cost of the Project is paid with funds of the Contractor, all cash discounts shall accrue to the Contractor. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Project.

Article 12

Payments to the Construction Manager

12.1 Monthly Statements - The Contractor shall submit to the County a sworn statement along with the Certificate for Payment, showing in detail all monies paid out, cost accumulated or costs incurred on account of the Cost of the Project during the previous period and the amount of the Contractor's fees due as provided in Article 8. This data shall be attached to the Certificate for Payment Form shown in **Attachment "N"**, and shall include, but not be limited, to the following:

- Daily Reports.
- Updated Project Schedule.
- Daily Red line As-Builts review.
- Provide a billing report with each payment application that shows a breakdown of costs incurred by line item. This report should correspond with the amounts being charged on the Schedule of Values.
- Provide backup copies of all invoices that the County is being billed for, including vendor invoices, payments to subcontractors, cell phone statements, insurance, petty cash receipts, etc. These invoices should be coded by the line item in order to correspond to the billing report and Schedule of Values.
- Provide backup copies and documentation of all costs incurred under General Conditions.
- Provide backup copies of all payroll that details which labor amounts were paid to whom on a weekly basis.
- Provide copies of all subcontractor contracts.

The amounts charged on the Payment Application must be accurate and correspond with the total dollar amount of backup provided by the Contractor.

Payment by the County to the Contractor of the statement amount shall be made in accordance with Section 218.735, Florida Statutes.

> **Ten percent of each payment shall be held by the County as retainage until fifty percent completion of such Project, which shall be deemed to have occurred when fifty percent of the Guaranteed Maximum Price, as increased or decreased from time to time, has been expended. At that time, the retainage shall be reduced to five percent and the Contractor shall be entitled to request payment or release of up to fifty percent of the previously withheld retainage amounts, provided the retainage is not the subject of a good faith dispute, the subject of a claim brought pursuant to s. 255.05, Florida Statutes or otherwise the subject of a claim or demand by the County**.

County may refuse to certify payment and withhold a Certificate for Payment in whole or in part, in accordance with subsection(s) above, to such extent as may be reasonably necessary to protect the County from loss because of:

A. defective work not remedied;

B. third party claims filed or reasonable evidence indicating the probable filing of such claims;

C. failure of Contractor to make payments properly to subcontractors, consultants, or for labor, materials or equipment;

D. evidence that the Project cannot be completed for the unpaid balance of the Guaranteed Maximum Price, as adjusted;

E. evidence that the Work will not be completed by the Scheduled Completion Date, as adjusted, and that the unpaid balance would not be adequate to cover the liquidated damages for the anticipated delay;

F. failure to carry out the Work of the Project in accordance with the Contract Documents; or

If the County is unwilling to certify payment in the amount of the Application for Payment submitted by the Contractor, County will provide Contractor with written reasons for its refusal, within three days. If Contractor and County cannot agree on a revised amount, County will, within one day of the aforesaid notification, promptly issue a Certificate for Payment as to the undisputed amount with respect to which County concurs.

12.2 Final Payment - Final payment constituting the unpaid balance of the Cost of the Project and the Contractor's fee shall be due and payable in accordance with Florida Statutes after an acceptable Certificate of Final Completion has been issued **and all contractual closeout obligations have been met by the Contractor**. Before issuance of final payment, the Contractor, subcontractors and agents shall submit original, sworn, notarized statements that all payrolls, material bills, and other debts connected with the Project have been paid or otherwise satisfied, warranty information is complete, Final As-Builts in AutoCad format acceptable to the County, have been submitted and instruction and documentation for the County's operating and maintenance personnel is complete.

12.3 Payments for Materials and Equipment - Payments will be made for material and equipment not incorporated in the work but insured, itemized, delivered and suitably stored at the site or another location subject to prior approval and acceptance by the County on each occasion.

12.4 Withholding Payments to Subcontractors - The Contractor shall not withhold payments to subcontractors if such payments have been made to the Contractor. In the event that the Contractor withholds payments to subcontractors for any reason, the Contractor shall immediately return such monies to the County, adjusting pay requests and project bookkeeping, as required.

Article 13

Insurance, Indemnity Waiver of Subrogation

13.1 Indemnification

A. The Contractor agrees to indemnify and hold harmless the County, and its employees and agents, from all claims, losses and expenses, arising out of or resulting from the performance of the products or services to be contracted, provided such claim, damage, loss or expense:

1. is attributable to bodily injury, sickness, disease, death or personal injury, or to property damage, including loss of use resulting therefrom, (but not loss of use for which liquidated damages are assessed under the Contract) and

2. is caused in whole or in part by any act or omission, negligent or otherwise, of the Contractor, any subcontractor, any of their employees and/or agents in the performance of this contract. The Contractor agrees that it will pay the costs of the County's legal defense, including reasonable fees of attorneys as may be selected by the County, and shall defend, satisfy, and pay any judgments which may be rendered against the County in connection with the above hold harmless language. The Contractor acknowledges specific consideration has been received for this hold harmless/indemnification provision.

B. The County shall cause any other Contractor who may have a contract with the County to perform construction or installation work in the area where work will be performed under this Contract, to agree to indemnify the County and the Contractor and hold them harmless from all claims for bodily injury and property damage (other than property insured under Subsection 13.2(3) that may arise from the Contractor's operations.

C. Loss Deductible Clause - The County shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor and/or Subcontractor providing such insurance.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28.

13.2 Insurance

A. The Contractor shall not commence any construction work in connection with this Contract until the Contractor has obtained all of the following types of insurance and such insurance certificate(s) have been submitted to the County and have been approved by the County, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all

insurance required of the Subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in the State of Florida.

1. **Commercial General Liability -** Including but not limited to bodily injury, property damage and personal injury with limits of not less than Two Million Dollars per occurrence, including products and completed operations, to include:

   a) ***"XCU" (Explosion, Collapse, Underground Damage) -*** The Contractor's Liability Policy shall provide "XCU" coverage.

   b) ***Broad Form Property Damage Coverage, Products and Completed Operations Coverage -*** The Contractor's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages.

   c) ***Contractual Liability Work Contracts -*** The Contractor's Liability Policy shall include Contractual Liability Coverage designed to protect the Contractor for contractual liabilities assumed by the Contractor in the performance of this Contract.

2. **Automobile Liability -** Including bodily injury, property damage liability for all vehicles owned, hired, leased and non-owned with limits of not less than Two Million Dollars per occurrence.

3. **Worker's Compensation -** Workers Compensation insurance providing statutory benefits as required in the State of Florida. The Contractor shall require any Subcontractor to provide evidence of this coverage. Additionally, if the contract requires working on or around a navigable waterway, the Contractor and all Subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in compliance with Federal statutes or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each Subcontractor, vendor or supplier.

4. **Professional Liability Insurance -** In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the vendor shall also be protected by a Professional Liability Insurance Policy in the amount of One Million Dollars per occurrence.

5. **Builders Risk Insurance -** In the event the contract involves services related to construction projects, the vendor shall also procure and maintain a Builders Risk Insurance Policy or Installation Floater with loss limits equal to the value of the construction project and issued to provide coverages on an "all risk" basis including theft.

In addition to the above, Specialty Insurance policies covering specific risks of loss (including but not limited to, for example; Longshore coverage, Crane and Rigging, Inland Marine, etc.) may be required by Brevard County Risk Management. Any additional specialty insurance coverage requirement will be dictated by the specific goods, products or services provided under the subject contract and insurance underwriting standards, practices, procedures or products available in the commercial insurance market at the time of the contract inception. The Vendor is required to procure and maintain all such specialty coverage in accordance with prudent business practices within the Vendors industry.

B. Performance and Payment Bonds - With limits of not less than one hundred percent of the total construction cost of this project. Payment and Performance Bond shall be recorded in the official record of the County in which the project is located. These bonds shall remain in effect at least until one year after the date when the final payment is approved. Any bonding company submitting a Bid Bond, Performance Bond or Payment Bond to Brevard County must be licensed to transact a fidelity and surety business in the State of Florida, and hold a Certificate of Authority from the Secretary of the Treasury under Act of Congress, approved by July 30, 1947 (United States Code 613), and approved by Brevard County. Acceptable surety companies shall be licensed to do business in Florida and shall have an A.M. Best Rating of "A-" and financial size V or higher.

The Contractor shall require each of its subcontractors to procure and maintain insurance during the life of the respective subcontracts.

C. Certificate of Insurance - The County shall be furnished proof of coverage of Insurance as follows:

Certificate(s) of Insurance will be furnished to the County within five days of the issuance of the Notice to Proceed. All Certificate(s) of Insurance shall be completed and signed by the authorized Resident Agent, and shall be dated and show:

1. The name of the insured Contractor, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date.

2. The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the Brevard County Board of County Commissioners as an additional insured to the extent of liability assumed by the Contractor under this Contract, and that these policies may not be canceled or modified without thirty days prior written notice to the County.

3. The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the Contractor under the terms of the Contract.

Certificates of Insurance shall be submitted to the County within five days of Notice to Proceed, and no work shall commence on site until all submitted Certificates of Insurance are acceptable to the County.

13.3 Waiver of Subrogation

13.1.1 The County and the Contractor waive all rights against each other, for damages caused by perils covered by insurance provided under Subsection 13.2 to the extent covered by such insurance except such rights as either party may have to the proceeds of such insurance held by the County and Contractor as trustees. The Contractor shall require similar waivers from all subcontractors and its sub-subcontractors.

13.1.2 The County and Contractor waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Contractor shall require similar waivers from all subcontractors and their sub- subcontractors.

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

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

Article 14

Termination of the Contract and County's Right to Perform Construction Manager's Obligation

14.1 Termination by the Contractor - If the Project is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor, or if the Project should be stopped for a period of thirty days by the County, then the Contractor may, upon written notice to the County within seven days of such act, request undisputed payment for all work executed, the Contractor's fee earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit, damages and terminal expenses incurred by the Contractor.

14.2 County's Right to Perform Contractor's Obligations and Termination by County for Cause

A. If the Contractor fails to perform any of its obligations under this Contract, the County may, after seven days written notice during which period the Contractor fails to perform such obligations, make good such deficiencies. The Guaranteed Maximum Price, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the County to making good such deficiencies and the Contractor's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

B. If the Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, or if it persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls forty-five days or more behind schedule) which has been adopted by the Construction Team, or if it fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract, then the County may, without prejudice to any right or remedy and after giving the Contractor and its surety, if any, seven days written notice, during which period Contractor fails to cure the violation, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and may finish the Project by whatever method he may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable termination expenses incurred by the County may be deducted from any payments left owed to the Contractor (excluding monies owed the Contractor for subcontract work).

14.3 Termination by County for Convenience

A. If the County terminates this Contract other than pursuant to Subsection 14.2(2) or Subsection 14.3(2), the County shall reimburse the Contractor for any unpaid cost of the Project due it under Article 9, plus that part of the unpaid balance of the Construction Phase Fee in an amount as will increase the payment on account of its fee to a sum which bears the same ratio to the Construction Phase Fee as the Cost of the Project at the time of termination bears to the Guaranteed Maximum Price, if established, otherwise to the County's Construction Budget. The County shall also pay to the Contractor fair compensation, either by purchase or rental at the election of the County, for any equipment retained. In case of such termination of the Contract, the County shall reimburse the Contractor for obligations and commitments made before notice of termination was received

by the Contractor.

B. After the establishment of the Guaranteed Maximum Price or at the completion of the Construction Phase, if the final cost estimates or lack of legislative funding make the Project no longer feasible from the standpoint of the County, the County may terminate this Contract and pay the Contractor its proportionate fee due in accordance with Subsection 8.1, plus any costs incurred pursuant to Articles 9 and 10.

C. Any termination by County for cause which is later determined to be invalid shall be considered a termination for convenience by the County.

14.4 Termination for Prohibition Against Contracting With Scrutinized Companies

A. The Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this Contract at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Contract.

If this Contract is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this Contract at its sole option if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Contract.

The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

B. As required by Section 287.135(5), Florida Statutes, prior to entering into a contract in excess of one million dollars to provide goods or services to Brevard County, an individual with authority to execute this Contract for the Contractor shall file a sworn statement with the contracting officer or Purchasing Director, as applicable verifying that none of the three conditions above exist. If the Contractor is found to have falsified the affidavit attached as Attachment "O", the County may terminate the contract.

C. If subsequent to the submittal of the attached affidavit, the Contractor: (1) has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel; (2)

is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or (3) is engaged in business operations in Cuba or Syria, the County may terminate this Contract.

D. Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract. As provided in Section 287.135(8), Florida Statutes, if Federal law ceases to authorize these contracting prohibitions, this Subsection shall become inoperative and unenforceable.

Article 15

Assignment; Governing Law; Venue; Severability

15.1 Neither the County nor the Contractor shall assign their respective interest in this Contract without the written consent of the other except as to the assignment of proceeds.

15.2 This Contract shall be governed by the Laws of the State of Florida.

15.3 Venue and Attorney's Fees: Venue for any legal action brought by any party to this Contract to interpret, construe or enforce this Contract shall be in a court of competent jurisdiction in and for Brevard County, Florida. In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

15.4 Severability: If any provision of this Contract is held by a Court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired

Article 16

Notice of Claim: Waiver of Remedies; No Damages for Delay; Dispute Resolution

16.1 The County's liability to Contractor for any claims arising out of or related to the subject matter of this Contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the County of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:

A. All claims must be submitted as a Request for Change Order in the manner as provided herein.

B. If the Contractor claims that any instructions given to him by the Architect/Engineer or by the County, by drawings or otherwise, involve extra Work not covered by the Contract and not

discoverable with a review of the plans and specifications, then, except in emergencies endangering life or property, Contractor shall give the Architect/Engineer and the County written notice thereof before proceeding to execute the Work. Said notice shall be given promptly enough to avoid delaying the Work and in no instance later than twenty days after the receipt of such instructions.

C. The Contractor must submit a Notice of Claim to the County and to the Architect/Engineer within twenty days of when the Contractor was or should have been aware of the occurrence of the event giving rise to the claim.

D. Within ten days of submitting its Notice of Claim, the Contractor shall submit to the County its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected. Within thirty days from the Notice of Claim the Contractor shall submit a detailed schedule impact and detailed cost analysis indicating quantities, unit prices, etc. establishing the basis for the amount of the claim.

E. The Contractor agrees that the County shall not be liable for any claim that the Contractor fails to submit as a Request for Change Order as provided in this section.

16.2 After receipt of a Request for Change Order, the County, in consultation with the Architect/Engineer, shall deliver to the Contractor its written determination of the claim. As to disputed matters subject to the determination by final County action (not actions for breach of contract or tort), the County's written decision following compliance with the dispute resolution procedure set forth in Subsections 16.4 through 16.6 below shall be final County action.

16.3 For work the Contractor performs with its own forces, and in addition to the adjustments provided for in Article 8, the Contractor's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the County or the Architect/Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Subsection 16.1 above, for an extension of the scheduled construction time. In the event of a change in such work that will modify the Guaranteed Maximum Price, the Contractor's claim for adjustment in contract sum are limited exclusively to its actual costs for such changes, including costs involved in claim preparation, plus five percent overhead, five percent profit and a two percent bond in the General Conditions. The Contractor expressly agrees that the foregoing constitute its sole and exclusive remedies for delays and changes in such work, and eliminate any other remedies for claim for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

16.4 In the event of any dispute over a proposed change order or any other matter arising out of the implementation or interpretation of this Contract the following dispute resolution process shall apply.

A. Within three days after denial of a Contractor's change order or contract modification request in an amount, individually or in total, less than the authorized purchasing level approved for the County Manager by the County Commission (currently at one hundred thousand dollars), the Contractor may submit to the County Manager, or his/her designee, documentation of the Contractor's position in the dispute or disagreement. The County Manager, or designee, within five days after the receipt of the Contractor's documentation, shall review the request and make a final determination as to whether denial was arbitrary and capricious based upon the sufficiency of the work under the terms of this Contract, applicable regulations, and/or relevant construction standards. Based upon the sufficiency and degree of completion, as well as any defects in the work and the amount reasonably required, if any, to correct or repair defective work, the County Manager, or designee, shall make the final determination as to whether a written change order or contract modification should be approved.

B. If the denied request or disputed amount exceeds the County Manager's purchasing authority, the County Manager shall present a report, recommendation and the Contractor's claim and documentation, to the County Commission for a final determination within thirty days after receiving the Contractor's documentation for the claim. The Commission shall make its decision using the standards specified in subparagraph (a) above.

16.5 Within thirty days after denial of a request for a change order or contract modification by the Contractor involving (1) an amount in excess of the County Manager's expenditure authority or (2) for the amount the Contractor claims to be due at the time the Project is ready for beneficial use or occupation, the County may, at the County's option in lieu of the procedure specified in Subsection 16.4, submit the dispute to a mediator with knowledge or experience in construction management, as agreed upon by the Contractor and the County. Upon referral to a mediator, the County and Contractor shall each pay half the estimated cost of the mediator, up front. Within fifteen days after the date of submittal, the mediator, applying the standards set forth in Subsection 16.4, shall investigate the dispute and submit a written recommendation for disposition of the dispute to the County Manager, or designee, with the qualifications specified in Subsection 16.4. Within fifteen days after receiving the mediator's recommendation, the County Manager shall submit the recommendation to the County Commission, along with a staff report analyzing the dispute and mediator's recommendation. Based on the standards set forth in Subsection 16.4 above, the County Commission shall decide whether to grant or deny, in whole or in part, the amounts recommended by the mediator. The County Commission's decision will be deemed final action on the disputed claim for the purposes of ripening the decision for judicial review. If the mediator recommends that no change order or contract modification be granted, the Contractor shall reimburse the County for any amounts paid by the County to the mediator.

16.6 The deadlines for completing the dispute resolution process described in Subsections 16.4 and 16.5 may be extended by mutual written agreement of the Contractor and the County.

Article 17

County's Right to Perform Construction and to Award Separate Contracts

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

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

17.3 Unless otherwise provided in the Contract Documents, when the County performs construction or operations related to the project with the County's own forces, the County shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract.

17.4 The Contractor shall afford the County, and separate contractors, reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the separate contractors' construction and operations with the Contractor, as required.

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

17.6 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible thereof.

17.7 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to

completed or partially completed construction or to property of the County or separate contractors.

Article 18

Federal Emergency Management Agency Requirements

During the performance of this Contract, the Contractor agrees as follows:

18.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to all employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

18.2 The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

18.3 The Contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the Contractor's commitments under this Article, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

18.4 The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.

18.5 The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

18.6 In the event of the Contractor's non-compliance with the non-discrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with

procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

18.7 The Contractor shall include the portion of the sentence immediately preceding Subsection 18.1 and the provisions of Subsections 18.1 through 18.7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

18.8 Clean Air Act and the Federal Water Pollution Control Act: (For all contracts in excess of One hundred fifty thousand dollars)

A. Clean Air Act –

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 United States Code § 7401, et seq.

2. The Contractor agrees to report each violation to the County through its Parks and Recreation Department and understands that the Brevard County Parks and Recreation Department will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The Contractor agrees to include these requirements in each subcontract exceeding one hundred, fifty thousand dollars financed in whole or in part with Federal assistance provided by Federal Emergency Management Agency.

B. Federal Water Pollution Control Act -

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 United States Code 1251, et seq.

2. The Contractor agrees to report each violation to the County through its Parks and Recreation Department and understands and agrees that the Brevard County Parks and

Recreation Department will, in turn, report each violation to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The Contractor agrees to include these requirements in each subcontract exceeding one hundred, fifty thousand dollars financed in whole or in part with Federal assistance provided by Federal Emergency Management Agency.

18.9 Suspension and Debarment:

A. This Contract is a covered transaction for purposes of 2 Code of Federal Regulations pt. 180 and 2 Code of Federal Regulations pt. 3000. As such, the Contractor is required to verify that neither the Contractor, its principals (defined at 2 Code of Federal Regulations § 180.995), or its affiliates (defined at 2 Code of Federal Regulations § 180.905) are excluded (defined at 2 Code of Federal Regulations § 180.940) or disqualified (defined at 2 Code of Federal Regulations. § 180.935).

B. The Contractor shall comply with 2 Code of Federal Regulations pt. 180, subpart C and 2 Code of Federal Regulations pt. 3000, subpart C, and shall include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

C. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 Code of Federal Regulations pt. 180, subpart C and 2 Code of Federal Regulations pt. 3000, subpart C, in addition to remedies available to the State of Florida (Division of Emergency Management) and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

D. The Contractor agrees to comply with the requirements of 2 Code of Federal Regulations pt.180, subpart C, and 2 Code of Federal Regulations pt. 3000, subpart C, while this Contract is valid. The Contractor agrees to include a provision requiring such compliance in its lower tier covered transactions.

18.10 Byrd Anti-Lobbying Amendment, 31 United States Code § 1352 (as amended): Contractors who apply or bid for an award of one hundred thousand dollars or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 United States Code § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the recipient.

18.11 Procurement of Recovered Materials:

In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are Environmental Protection Agency-designated items unless the product cannot be acquired:

A. Competitively within a timeframe providing for compliance with the Contract performance schedule;

B. Meeting Contract performance requirements; or

C. At a reasonable price. Information about this requirement, along with the list of Environmental Protection Agency-designate items, is available at the Environmental Protection Agency's Comprehensive Procurement Guidelines website.

18.12 Additional Federal Emergency Management Agency Requirements:

A. Access to Records:

1. The Contractor agrees to provide the County, the Federal Emergency Management Agency Administrator, the Comptroller General of the United States, or any of their authorized representatives' access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions.

2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

3. The Contractor agrees to provide the Federal Emergency Management Agency Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Contract.

B. DHS (Department of Homeland Security) Seal, Logo and Flags:

The Contractor shall not use Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of Department of Homeland Security agency officials without specific Federal Emergency Management Agency pre- approval.

C. Compliance with Federal Law, Regulations and Executive Orders:

The Contractor acknowledges that FEMA financial assistance will be used to fund this Contract and resulting Contracts only. The Contractor shall comply with all applicable federal law, regulations, executive orders, Federal Emergency Management Agency policies, procedures and directives.

D. No Obligation by Federal Government:

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, i.e., Contractor, or any other party pertaining to any matter resulting from the Contract.

E. Fraud and False or Fraudulent or Related Acts:

The Contractor acknowledges that 31 United States Code Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

Article 19

Miscellaneous

19.1 Interest - Any monies not paid when due to either party under this Contract shall not bear interest except as may be required by Section 218.70, et seq., Florida Statutes, ("The Florida Prompt Payment Act").

19.2 Harmony - Contractor is advised and hereby agrees to exert every reasonable and diligent effort to assure that all labor employed by Contractor and its subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and Contractors now or hereafter on the site of the Project.

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

19.3 Apprentices - If the Contractor employs apprentices on the Project, the behavior of the Contractor and the County shall be governed by the provisions of Chapter 446, Florida Statutes, and by applicable standards and policies governing apprentice programs and agreements established by the Division of Labor of the State of Florida Department of Labor and Employment Security. The Contractor shall include a provision similar to the foregoing sentence in each subcontract.

19.4 Minority Participation - The Contractor shall diligently attempt to award its material contracts, subcontracts and sub-subcontracts to firms having a letter of certification as a minority business from the Office of Minority Business Assistance, Department of General Services, or any other Federal, Florida, County or City certification.

19.5 Minority Employment Information - The County requires construction contractors, who would otherwise be required to file and Equal Employment Opportunity Form 1 Report under Federal Law (currently Federal law requires filing for employers with more than fifteen employees), to submit an Equal Employment Opportunity Form 1 Report with the submission of their Guaranteed Maximum Price. This requirement extends to any subcontractors who are required to submit the Equal Employment Opportunity Form 1 Report (over fifteen employees) under Federal law. Failure to submit an EEO Form 1 Report with the Guaranteed Maximum Price will be reason to declare the submission "non-responsive". However, the information will be used for statistical purposes only and will not be used in any way as a basis to award a contract. See **Attachment "P"**.

19.6 Public Entity Crime Affidavit attached as **Attachment "Q"**.

19.7 Non-Collusion Affidavit of Prime Bidder attached as **Attachment "Q"**.

19.8 Copyright Clause No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by Contractor in the United States or any other Country.

19.9 E-Verify The Contractor:

A. Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor during the term of the Contract; and

B. Shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and

C. Agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participations by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program.

D. Compliance with the terms of this section is made an express condition of this Contract and the County may treat a failure to comply as a material breach of this Contract.

E. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the contractor hires or employs a person who is not eligible for employment.

F. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

In Witness Whereof, the parties hereto have executed this Contract the day and year first written above.

Attest:

Scott Ellis, Clerk of Court

Board of County Commissioners of Brevard County, Florida

By: _____
Kristine Isnardi, Chair

As approved by the Board on

Reviewed for Legal Form and Content

Abigail Forrester Jorandby
Assistant County Attorney

Construction Company
W+J Construction Corp.

By: _____ 3/8/19
President Date

State of Florida
County of Brevard

The foregoing instrument was acknowledged before me this 8 day of March 2019 by Nick Witek whose position is _____ with the firm of W+J Construction Corp., a Florida Corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ as identification.

Notary Public

SHELLEY D. SUTHERLAND
MY COMMISSION # FF 224378
EXPIRES: June 8, 2019
Bonded Thru Notary Public Underwriters

Typed/Printed Name

Exhibit A

Parks and Recreation Department
Hurricane Priority List

		Estimate	Balance Forward Commited	Ins Rec'd	Funds Needed
1	Central Area Roofs	$113,448			0
1	Veterans Boardwalk	$1,000,000	$372,288	$63,849	$563,863
2	Parrish Park Docks- Titusville	$751,643	$751,643		$0
3	Kennedy Point Boat Ramp & Seawall	$703,695			$703,695
4	Titusville Veterans Pier Catwalk	$294,729	$190,729	$104,000	$0
5	Waterway South Dock & 3 T-docks	$225,000			$225,000
6	Riverwalk Park Boardwalk	$53,820			$53,820
7	Space View Park Boardwalk & Dock	$2,842,000			$2,842,000
8	Rotary South Boardwalk & Dock	$1,453,140			$1,453,140
9	Kiwanis Island South Side Dock	$181,500			$181,500
10	Statham Boardwalk	$900,000			$900,000
11	Kelly Park East Seawall	$181,500	$36,750		$144,750
12	Marina Park Shoreline	$1,573,425			$1,573,425
13	Sandpoint Park Shoreline	$2,198,547			$2,198,547
14	Manzo Park Shoreline & Boardwalk	$359,568			$359,568
15	Nicol Park Shoreline	$423,968			$423,968
16	Mcfarland Fishing Pier & Dock	$138,600			$138,600
17	Ulumay Fishing Pier	$154,660			$154,660
18	Valencia Fishing Pier	$67,500			$67,500
			$1,351,410	$167,849	$11,984,036

Mitigated Projects	Matthew	Irma	Total
Port St John Boat Ramp	$450,000	$150,592	$600,592
Hog Point Caretaker House	$190,000	$0	$190,000
Manatee Hammock Shoreline	$747,708	$352,968	$1,100,676

Attachment "A"

Construction Team Assigned Representatives

County:
Brevard County Parks and Recreation Department

Project Director: Mike Butcher
Contract Administrator: Melissa Renninger

Architect-Engineer:
BRPH, 5700 North Harbor City Blvd, Suite 400, Melbourne, FL 32940

Construction Manager:
Heard Construction, Inc., 95 E. Hall Road, Merritt Island, FL 32953

President - Nick Witek
Vice President/Principal-In-Charge – Nick Witek
Director of Construction – Erik Costin
Project Manager – Daniel Herman
Project Administrator – Shelley Sutherland
Project Superintendent – Jim Ferguson
Estimator/Cost Control – Steve Carlyle
Schedules – Daniel Herman

Attachment "B"

Project Scope of Work

Provide all labor, materials, and equipment for: Dock Replacement at Kiwanis Island Park.

1. Building permits and fees are excluded
2. All Work to be completed during daytime hours
3. Mobilization/De-mobilization pile driving barge (to meet specifications)
4. Remove and dispose of balance of 2 ramp piers/docks
5. All work to be completed per plans by BRPH, PLLC issued for construction, dated December 17, 2018, Project Number C07595.001/G-001 – Kiwanis.DWG
6. Rock Punching Cost included (as per specifications)
7. Typical Type two by five feet deep Turbidity Curtains around work area included
8. Payment terms are Net 30
9. For the Pile location, Contractor will stake existing locations. Should County need full survey, Contractor will provide additional cost.

Attachment "C"

Direct Purchasing Procedure

Intent: The County intends that these procedures govern the County's direct purchases of selected materials so that the County may take advantage of its tax exempt status. All monies which would have been payable as taxes, if not for County direct purchase under these procedures, will inure solely to the benefit of the County. The County's direct purchase of materials will not minimize or conflict with the Contractor's responsibility for the purchase, installation, coordination, storage, protection, warranty, etc. of the materials as described herein and in the plans and specifications of the Contract.

Definitions: For the purpose of these Procedures, the following words have the following definitions:

Contract: Construction Manager Contract by and between the Contractor and the County to provide labor, materials, and equipment for: dock and walkway repair at Intracoastal Waterway Park.

County: See Definition in Article I, Section 1.3.

County Purchased Materials: Materials purchased directly by the County through execution and delivery of a Purchase Order.

County's Representative: See Definition in Article I. Section 1.3.

Guaranteed Maximum Price (GMP): Guaranteed Maximum Price established under the Contract.

Materials: Tangible Personal Property necessary for completion of the Project.

Materials Deduction Summary: Written document signed by the County's representative and Contractor setting forth the amounts of County Purchased Materials, plus applicable taxes were the purchase not exempt from such taxes, as reflected in the parties' previously executed deductive change order(s) to the Contract showing deduction of such Materials from the GMP.

Project: See Definition in Article I., Section 1.3.

Purchase Order: The County's request for Materials from a particular vendor or supplier when fully executed and delivered to the Contractor, and the County's promise to pay for the Material specified upon delivery and acceptance at the Project site, and presentation of an invoice by the Contractor to the County certifying payment of same.

Material Requisition: A request by the Contractor to the County that the County directly purchase specific items described in sufficient detail, including quantity, grade, brand, etc. along with the vendor or material supplier and that vendor or material supplier's quoted price for the Materials.

Overview: The County requires the Contractor to notify the County's representative of Materials needed for the Project exceeding Five Thousand Dollars in value, through a Material Requisition form. For the purpose of these Procedures, the Contractor shall assign to the County any rights the Contractor may have under quotes, contracts or commitments received from the particular vendor or supplier for the Materials described in the Material Requisition. Any Materials purchased by the County pursuant to these Procedures shall be referred to as "County Purchased Materials", and the responsibilities of the County and Contractor relating to such County Purchased Materials shall be governed by the terms and conditions of these Procedures, which shall take precedence over other conditions and terms of the Contract documents where inconsistencies or conflicts exist. The invoiced amount of County Purchased Materials and applicable sales tax had the purchases not been tax exempt, once finalized through the County's Purchase Order and after confirmation of completed delivery and acceptance pursuant to this Procedure will be deducted from the GMP, as defined in the Contract, by deductive change order.

County Direct Purchasing Requirements and Procedures: When a Materials purchase for the Project is estimated to be $5,000 or greater and time allows for an Owner Direct Purchase, Contractor shall prepare a Material Requisition form, (to be provided by the County), acceptable to County, and which specifically identifies Materials which County may, in its discretion, elect to purchase directly. The Material Requisition form shall be complete when submitted, and all information requested provided. Along with the Material Requisition the Contractor shall provide.

A. The name, address, telephone and fax number and contact person for the material supplier;

B. Manufacturer or brand, model or specification number of the item;

C. Quantity needed as estimated by Contractor;

D. The price quoted by the supplier for the Materials identified therein;

E. Any sales tax associated with such quote if it were not purchased by a tax exempt entity;

F. Shipping and handling cost, including associated insurance;

G. Delivery dates as established by the Manager;

H. Subcontractor's written acknowledgement of these Procedures for County Director Purchase of Materials.

After receipt of the Material Requisition, the County's Representative will determine whether the County will directly purchase the Materials described in the Material Requisition, and communicate consent or decline to purchase the materials to the Contractor within twenty four hours. Brevard County's Purchasing Department shall be the County's approving authority on Purchase Orders of County Purchased Materials. If the County consents to purchase the Materials, the County shall issue a Purchase Order for same. The County shall issue the original Purchase Order, and the Contractor shall deliver the Purchase Order to the subcontractor. The Purchase Order shall require (1) that the supplier provide the required shipping, (2) that the supplier provide the required shipping and handling insurance, and (3) delivery of the County Purchased Materials on the delivery dates provided by the Contractor in the Material Requisition.

The Contractor shall be fully responsible for all matters relating to the receipt of County Purchased Materials under these Procedures, including, but not limited to preparation of shop drawings and submittals, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials due to the negligence of the Contractor. The Contractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Contractor for the Materials furnished. The contractor shall provide all services required for the unloading, handling and storage of materials through installation. The Contractor agrees to indemnify and hold the County harmless from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions of the Contractor.

The Contractor shall insure that County Purchased Materials conform to the Specifications, and determine prior to incorporation in the Project, if such Materials are patently defective, and whether such Materials are identical to the Material ordered and match the description on the bill of lading. As County Purchased Materials are delivered to the job site, the Contractor shall inspect all shipments from the suppliers, and, if in conformance with the Purchase Order, approve the vendor's invoice for materials delivered. The Contractor shall assure that each delivery of County Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of an itemized delivery ticket, packing slip or invoice from the supplier conforming to the Purchase Order against which the purchase is made, together with such additional information as the County may require. The Contractor shall then forward the documentation to the County.

If the Contractor discovers defective or non-conformities in County Purchased Material upon inspection, the Contractor shall not use such non-conforming defective Materials in the Project and instead shall promptly notify the County of the defective or non-conforming conditions and coordinate the repair or replacement of those Materials without any undue delay or interruption to the Project. All repair, maintenance or damage-repair calls shall be forwarded to the

Contractor for resolution with the appropriate supplier, vendor or subcontractor. If the Contractor fails to perform such inspection, the condition of which the Contractor either knew or should have known by performance of an inspection, the Contractor shall be responsible for all damages to the County resulting from Contractor's incorporation of such Materials into the Project, including liquidated or delay damages.

On a bi-weekly basis, the Contractor shall be required to review invoices submitted by all suppliers of County Purchased Materials delivered to the Project Site during that month and either concur or object to the County's issuance of payment to the suppliers, based on the Contractor's records of materials delivered to the Project. In order to arrange for the prompt payment to the supplier, the Contractor shall provide to the County a list indicating the acceptance of the goods or materials within fifteen days of receipt of said invoice for goods or materials. The list shall reference the applicable purchase order and include a copy of the invoiced, delivery tickets written acceptance of the delivered items, and such other documentation in duplicate, the County shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be delivered directly to the supplier. If any discounts are available from the supplier or vendor, said discounts shall accrue to the benefit of the County, and the amount quoted by the vendor, plus applicable tax, shall be deducted from the GMP. The Contractor agrees to assist the County to immediately obtain partial or final releases or waivers as appropriate.

Following performance of the Purchase Orders by the suppliers, and submittal of documentation confirming same to County with an invoice for payment by County, the Contractor shall execute and deliver to the County at the end of each month along with the Contractor's regular pay requests, a Materials Deduction Summary setting forth the full value of all County Purchased Materials, plus all taxes which would have been payable on the purchase of the Materials had the purchased materials not been County purchased. The Materials Deduction Summary shall show all sums to be deducted by an appropriate deductive change order, and ultimately the GMP, to date. The Board of County Commissioners, or their authorized representative, shall be the approving authority for the County on the Materials Deduction Summary for County Purchased Materials.

The Contractor shall maintain records of all County Purchased Materials incorporated in the Project. These records shall be available for inspection by the County upon request.

Notwithstanding the delivery of County Purchased Materials to the Project site for the Contractor's inspection, custody and incorporation into the Project, the County shall retain legal and equitable title to any and all County Purchased Materials. The transfer of possession of County Purchased Materials from the County to the Contractor shall constitute a bailment for the mutual benefit of the County and the Contractor solely for the purposes set forth herein. The County shall be considered the bailer and Contractor the bailee of the County Purchased Materials. County Purchased Materials shall be considered returned to the County for purposes

of their bailment at such time as the purchased materials are incorporated in the Project or are returned to the vendor or supplier at the discretion of the Contractor prior to payment for the Purchase Order by the County.

The County shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to County Purchased Materials. Such insurance shall cover the full value of any County Purchased Materials not yet incorporated into the Project from the time the Owner first takes title to any of such County Purchased Materials and the time when the last of such County Purchased Materials is incorporated into the Project, or are returned to the vendor at the Contractor's discretion prior to County's payment for same.

The County shall in no way be liable for any interruption or delay in the Project, for any defects or other problems with the Project, or any extra costs or time resulting from any delay in the delivery of, or defects in, County Purchased Materials.

Attachment "D"

Drawings of Project

DESCRIPTION OF WORK

BREVARD COUNTY OWNED WOODEN DOCKS WERE DAMAGED DURING HURRICANE IRMA IN SEPTEMBER OF 2017. THIS SCOPE OF WORK IS FOR KIWANIS PARK LOCATED IN MERRIT ISLAND, FL. THIS SCOPE INCLUDES: RESIDENTIAL DEMOLITION AND DISPOSAL OF TWO EXISTING WOODEN DOCKS AND CONSTRUCTION OF NEW WOODEN DOCKS WITHIN THE EXISTING FOOTPRINT OF THE ORIGINAL DOCK STRUCTURES. NO DOCK EXPANSION AND/OR EXTENSION ARE WITHIN THIS SCOPE. THIS PACKAGE MAY HAVE SHARED NOTES AND/OR DETAILS THAT REFERENCE INTRACOASTAL WATERWAY PARK AND VALENCIA PARK. THIS SCOPE OF WORK DOES NOT INCLUDE INTRACOASTAL WATERWAY PARK OR VALENCIA PARK. KIWANIS PARK IS EXEMPT FROM FDEP (FILE NO. 3708/5001-EE), BREVARD COUNTY LAND SURVEYING PERMITTING PER 62-330.051 F.A.C. THIS SCOPE OF WORK WILL BE COMPLETED BY ONE GENERAL CONTRACTOR IN ONE PHASE.

VICINITY MAP

LOCATION MAP

KIWANIS ISLAND PARK PIER REPAIR 951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY , FL

BOARD OF COUNTY COMMISSIONERS
RITA PRITCHETT
JIM BARFIELD
JOHN TOBIA
CURT SMITH
KRISTINE ISNARDI

DRAWING INDEX

DRAWING NUMBER	DRAWING TITLE	REVISION
G-001	COVER SHEET	
G-002	LEGEND AND ABBREVIATIONS	
G-003	GENERAL NOTES	
G-101	DEMOLITION PLAN	
C-101	SITE PLAN	
S-101	FRAMING PLAN	
S-501	ENLARGED FRAMING PLAN	
R-111	SURVEY DRAWING	
R-120	GEOTECHNICAL BORINGS	

ISSUE FOR CONSTRUCTION
12/17/2018

ENGINEERS & CONSULTANTS

BRPH

SURVEYOR

GEOTECHNICAL ENGINEER

BRPH

Architects Engineers, Inc.
3350 North Harbor City Blvd Suite 400
Melbourne | Florida | 32940
321 757 7668 | 321 259-4002 |

Offices in Melbourne, Orlando, Atlanta
Boca Raton, Lynnwood, and Charleston

Board of Architecture License No. AAC000149
Board of Professional Engineers License No 1431

These plans are protected by Federal Copyright protection. Unauthorized use may result in an infringement action

ISSUED FOR CONSTRUCTION

NO	DATE	DESCRIPTION

KIWANIS ISLAND PARK DOCK REPAIR
951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BREVARD COUNTY PARKS & REC

T MONTEMAYOR
FL PE59425

T MONTEMAYOR

D ENAMORADO

C0756E 0013-00 - KIWANIS DWG

12.17.18

COVER SHEET

G-001

ABBREVIATIONS

NOTE: ABBREVIATIONS SHOWN MAY OR MAY NOT BE USED.

AASHTO	AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS	GPD	GALLONS PER DAY	SAN	SANITARY
		GPS	GLOBAL POSITIONING SYSTEM	SS	SANITARY SEWER STAINLESS STEEL
ADD	ADDENDUM	GALV	GALVANIZED	SCHED	SCHEDULE
ADJ	ADJACENT	GSP	GALVANIZED STEEL	SECT	SECTION
A/C	AIR CONDITION	GV	GATE VALVE	SH	SHEET
ALT	ALTERNATE	GEN	GENERAL	SLP	SLOPE
AL	ALUMINUM	GRD	GRADE	S	SOUTH
ASTM	AMERICAN SOCIETY FOR TESTING MATERIALS	GND	GROUND	SPEC	SPECIFICATION
APPROX	APPROXIMATELY	GUT	GUTTER	SQ	SQUARE
A/E	ARCHITECTURAL ENGINEERING	GOAA	GREATER ORLANDO AVIATION AUTHORITY	SF	SQUARE FEET
ARCH	ARCHITECTURAL	GBP	GROUND SQUARE PIPE	SQ IN	SQUARE INCH
ASPH CONC	ASPHALTIC CONCRETE			STD	STANDARD
ASSY	ASSEMBLY	HC	HANDICAP	STA	STATION
ASTM	AMERICAN SOCIETY OF TESTING AND MATERIALS	HD	HEAD	STL	STEEL
@	AT	HDR	HEADER	STOR	STORAGE
AVE	AVENUE	HWY	HIGHWAY	SD	STORM DRAIN
AVG	AVERAGE	HP	HORSEPOWER	ST	STREET
AWWA	AMERICAN WATER WORKS ASSOCIATION	HORIZ	HORIZONTAL	SURF	SURFACE
		HB	HOSE BIB	SYM	SYMBOL
BC	BEGINNING CURVE			SYS	SYSTEM
BL	BASE LINE	ID	INSIDE DIAMETER	SWPPP	STORMWATER POLLUTION PREVENTION PLAN
BRG	BEARING	INFO	INFORMATION		
BM	BENCH MARK	IN	INCH	TAN	TANGENT
BIT	BITUMINOUS	INV	INVERT	TEL	TELEPHONE
BLK	BLOCK			TEMP	TEMPORARY
BO	BLOW OFF	JT	JOINT	TB	TEST BORING, TOP OF BANK
BOT	BOTTOM	JB	JUNCTION BOX	TYP	TYPICAL
BLVD	BOULEVARD				
BLDG	BUILDING	LAT	LATITUDE	TYP	TYPICAL
		L	LENGTH		
CB	CATCH BASIN	LF	LINEAR FEET	UGE	UNDERGROUND ELECTRICAL
CL	CENTERLINE	LONG	LONGITUDE	UTIL	UTILITY
CLF	CHAIN LINK FENCE				
CV	CHECK VALVE	MAINT	MAINTENANCE	VERT	VERTICAL
CHD	CHORD	MH	MANHOLE	VOL	VOLUME
CO	CLEANOUT, CHANGE ORDER	MFR	MANUFACTURER		
COL	COLUMN	MATL	MATERIAL	W	WATER, WEST
CONC	CONCRETE	MAX	MAXIMUM	WELL	WATER WELL
CBS	CONCRETE BLOCK AND STUCCO	MHWL	MEAN HIGH WATER LEVEL	W/	WITH
CONN	CONNECTION	MLWL	MEAN LOW WATER LEVEL	W/O	WITHOUT
CONST	CONSTRUCTION	MECH	MECHANICAL		
CJ	CONSTRUCTION JOINT	MJ/MJ	MECHANICAL JOINT TO MECHANICAL JOINT		
CONT	CONTINUOUS	MJ/PE	MECHANICAL JOINT TO PLAIN END		
CONTR	CONTRACTOR	MIN	MINIMUM		
COORD	COORDINATE	MISC	MISCELLANEOUS		
CAP	CORRUGATED ALUMINUM PIPE				
CMP	CORRUGATED METAL PIPE	N	NORTH		
CU FT	CUBIC FEET	NA	NOT APPLICABLE		
CFM	CUBIC FEET PER MINUTE	NIC	NOT IN CONTRACT		
CFS	CUBIC FEET PER SECOND	NTS	NOT TO SCALE		
CU YD	CUBIC YARD	NO	NUMBER		
CY	CUBIC YARD	NOI	NOTICE OF INTENT		
CPT	CURB PIPE	NOT	NOTICE OF TERMINATION		
DEPT	DEPARTMENT	OC	ON CENTER		
DET	DETAIL	OPNG	OPENING		
DIAG	DIAGONAL	ORIG	ORIGINAL		
DIA	DIAMETER	OD	OUTSIDE DIAMETER		
DIM	DIMENSION	OH	OVERHEAD		
DIV	DIVISION	DBY	OVERBY		
DBL	DOUBLE	OUC	ORLANDO UTILITIES COMMISSION		
DS	DOWNSPOUT				
DWG	DRAWING	PE	PLAIN END SPIGOT		
DIP	DUCTILE IRON PIPE	PVMNT	PAVEMENT		
		PERF	PERFORATED		
EA	EACH	PERP	PERPENDICULAR		
E	EAST	PEAPE	PLAIN END AR PLAIN END		
ELEC	ELECTRIC	PVMT	POINT		
ELEV	ELEVATION	PC	POINT OF CURVATURE		
ERCP	ELLIPTICAL REINFORCED CONCRETE PIPE	PI	POINT OF INTERSECTION		
ENGR	ENGINEER	PRC	POINT OF REVERSE CURVE		
ENT	ENTRANCE	PT	POINT OF TANGENCY, TYP SQUARE TUBE POST		
EQUIP	EQUIPMENT	PVI	POINT OF VERTICAL INTERSECTION		
EXIST	EXISTING	PVC	POLYVINYL CHLORIDE PIPE		
EJ	EXPANSION JOINT	PIV	POST INDICATOR VALVE		
		PSF	POUNDS PER SQUARE FOOT		
FOC	FACE OF CURB	PSI	POUNDS PER SQUARE INCH		
FT	FEET	P	POWER		
FPS	FEET PER SECOND	PP	POWER POLE		
FF	FINISH FLOOR	PL	PROPERTY LINE		
FF-A	FIRE HYDRANT ASSEMBLY				
FLGE	FLANGE JOINT BY FLANGED JOINT	R	RADIUS		
FLGPE	FLANGED JOINT BY PLAIN END	RED	REDUCER		
FLR	FLOOR	REF	REFERENCE		
FL	FLOW LINE	REINF	REINFORCED, REINFORCEMENT		
FTG	FOOTING	RCP	REINFORCED CONCRETE PIPE		
FU	FUTURE MAIN	REQ'D	REQUIRED		
FDN	FOUNDATION	REV	REVISED, REVISION		
FUT	FUTURE	RPM	REVOLUTIONS PER MINUTE		
FDEP	FLORIDA DEPT OF ENVIRONMENTAL PROTECTION	ROW	RIGHT OF WAY		
FDOT	FLORIDA DEPARTMENT OF TRANSPORTATION	RD	ROAD		
		RT	RIGHT		

LEGEND

NOTES:

DESCRIPTION	NEW	EXISTING
BUILDING STRUCTURE		
CONCRETE SIDEWALK		
ASPHALT PAVEMENT		
VERTICAL CURB		
CURB & GUTTER		
DEMOLITION OR REMOVAL		
SANITARY SEWER & MANHOLE	SS	
FORCE MAIN	FM	
SANITARY SEWER ASSEMBLY	SS	
STORM DRAIN	SD	
CURB VALET	SD	
STORM DRAIN INLET	SD	
CONCRETE RETAINING WALL		
CONCRETE RETAINING SECTION		
WATERLINE	W	
WATER LINE MONITOR	W	
WATERLINE W/ BLOWOFF	W	
FIRE WATER	FW	
REUSE WATER	RW	
GATE VALVE		
CHECK VALVE		
FIRE HYDRANT W/ VALVE		
FIRE DEPARTMENT CONNECTION		
POST INDICATOR VALVE		
LIMITS OF CONSTRUCTION		
GAS LINE	G	
POWERLINE	P	
TELEPHONE	TELE	
UNDERGROUND ELECTRIC	UGE	
UNDERGROUND COMMUNICATION	UGC	
CONTOURS	100	
SPOT ELEVATION	100.00	
SWALE OR FLOW DIRECTION		
FENCE		
PROPERTY LINE		
CENTERLINE		
TREE		
RAILROAD TRACK		
GUARD RAIL		
RETENTION LAKE		
SILT FENCE		
TURBIDITY BARRIER		
SOIL BORING		
BENCHMARK		

SYMBOLS AND LEGEND

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
	SECTION LETTER WHERE DRAWN		ELEVATION POINT OF REFERENCE
	DETAIL NUMBER WHERE DRAWN		BENCHMARK/ WORK POINT

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ISSUE/AMENDMENT HISTORY	
REV	DATE / DESCRIPTION

KIWANIS ISLAND PARK DOCK REPAIR
951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BREVARD COUNTY PARKS & REC

DRAWN BY
T.MONTEMAYOR
FL PE#59425

DESIGNED BY
T.MONTEMAYOR

CHECKED BY
D ENAMORADO

PROJECT NUMBER
C07386.001G-001- KIWANIS DWG

DATE
12/17/18

TITLE
LEGEND AND ABBREVIATIONS

DRAWING NO
G-002

GENERAL NOTES:

DESCRIPTION OF WORK

1. PROJECT BASE BID SCOPE INCLUDES REMOVAL OF DEMOLITION AND DISPOSAL OF EXISTING WOODEN DOCKS AND CONSTRUCTION OF NEW WOODEN DOCKS WITHIN THE EXISTING FOOTPRINT OF THE ORIGINAL STRUCTURES. BID ALTERNATE SCOPE IS LIMITED TO EXTENDED WOOD PILE EMBEDMENT, WITH NO CONSTRUCTION BIDS NOTES ON THIS SHEET FOR ADDITIONAL INFORMATION

GENERAL CONSTRUCTION NOTES

3. DESIGN IS BASED ON THE FLORIDA BUILDING CODE 7TH EDITION.
3. ALL MATERIAL AND WORKMANSHIP SHALL COMPLY WITH PROJECT DRAWINGS AND SPECIFICATIONS.
4. THE CONTRACTOR SHALL VERIFY ALL EXISTING DIMENSIONS PRIOR TO BIDDING SITE.
5. THE CONTRACTOR SHALL WORK STRUCTURAL DRAWINGS TOGETHER WITH CIVIL DRAWINGS TO PLAN WORK. ANY DISCREPANCIES SHALL BE CALLED TO THE ATTENTION OF THE ENGINEER BEFORE PROCEEDING WITH THE WORK.
6. THE STRUCTURAL INTEGRITY OF THE COMPLETED STRUCTURE DEPENDS UPON THE INTERACTION OF VARIOUS CONNECTED COMPONENTS. PROVIDE ADEQUATE BRACING, SHORING, AND OTHER TEMPORARY SUPPORTS AS REQUIRED DURING CONSTRUCTION TO SAFELY COMPLETE THE WORK.
7. THE CONTRACTOR SHALL VERIFY ALL EXISTING DIMENSIONS AND CONDITIONS PRIOR TO ORDERING ANY MATERIALS AND SHALL NOTIFY THE ENGINEER IF DIFFERENT FROM WHAT IS SHOWN ON THE DRAWINGS.
8. THE CONTRACTOR SHALL REVIEW THESE DRAWINGS AND VISIT THE PROJECT SITE BEFORE CONSTRUCTION BEGINS TO COMPARE ALL EXISTING CONDITIONS WITH WHAT IS SHOWN ON THESE DRAWINGS. IF THERE ARE CONDITIONS WHICH ARE DIFFERENT FROM WHAT IS SHOWN, THE STRUCTURAL ENGINEER OF RECORD SHALL BE NOTIFIED.
9. THE CONTRACTOR SHALL ARRANGE A PRE-CONSTRUCTION MEETING WITH THE ARCHITECT/ENGINEER TO ENSURE THAT THE CONTRACTOR'S UNDERSTANDING OF THESE DRAWINGS AND PLANS FOR THE WORK IS IN ACCORDANCE WITH THE DESIGN INTENT AND TO CLARIFY ANY QUESTIONS THAT THE CONTRACTOR MAY HAVE.
10. ALL DETAILS AND SECTIONS SHOWN ON THE DRAWINGS ARE INTENDED TO BE TYPICAL AND SHALL BE CONSTRUCTED TO APPLY TO ANY SIMILAR SITUATION ELSEWHERE ON THE PROJECT, EXCEPT WHERE A DIFFERENT DETAIL IS SHOWN.
11. CONTRACTOR SHALL SUBMIT TO FOR REVIEW AND APPROVAL SHOP DRAWINGS FOR ALL APPLICABLE TRADES IN ACCORDANCE WITH THE REQUIREMENTS OF THE CONTRACT DOCUMENTS, INCLUDE INFORMATION THAT CONFIRMS QUALITY OF ALL MATERIALS AS STATED ON THE CONTRACT DOCUMENTS, INCLUDING WOOD FRAMING NAILS (11165 STEEL), AND INFORMATION ON OTHER DRAWINGS FOR ADDITIONAL REQUIREMENTS.
12. ALL RESUBMITTED EXPLICIT REVIEW OF SHOP DRAWINGS AND WOOD MAY NEED FOR RESUBMITTAL BY THE CONTRACTOR. SUBMITTED SHOP DRAWINGS SHALL BE CONSISTENT WITH ADEQUATE AND NECESSARY INFORMATION SHOWN TO FACILITATE THEIR REVIEW.
13. CONTRACTOR SHALL REVIEW FINAL SHOP DRAWINGS THOROUGHLY AND VERIFY DIMENSIONS, ELEVATIONS, QUANTITIES, ETC. BEFORE SUBMITTING FOR REVIEW AND APPROVAL. UNREVIEWED SHOP DRAWINGS BY CONTRACTOR SHALL BE REJECTED AND RETURNED.
14. CONTRACTOR SHALL BE RESPONSIBLE FOR THE COORDINATION BETWEEN SHOP DRAWINGS AND DRAWINGS OF DIFFERENT TRADES, ANY FIELD ISSUES AS A RESULT OF THE LACK OF SUCH COORDINATION SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.
15. ALL CONCRETE WORK SHALL COMPLY WITH PROVISIONS OF ACI 318, ACI 301, AND THE FLORIDA BUILDING CODE, LATEST EDITIONS.
16. CONCRETE SHALL BE NORMAL WEIGHT 4,000psi (28 DAYS). SUBMIT CONCRETE MIX DESIGNS FOR EACH FORMULATION OF SPECIFIED CONCRETE WITH MIX DATA TO SHOW THAT THE CONCRETE IS COMPLIANCE WITH ACI 301. MIX DESIGNS SHALL BE IN ACCORDANCE WITH METHOD 1 OR METHOD 2 OF ACI 301, INDICATE ON EACH SUBMITTAL WHERE THE MIX IS TO BE USED, INDICATE THE REQUIRED AVERAGE COMPRESSIVE STRENGTH USED AS BASIS FOR EACH MIX DESIGN ALONG WITH THE SUPPORTING DATA IF DIFFERENT FROM ABOVE.

DESIGN, DATA & SPECIFICATIONS

17. PILES ARE DESIGNED BASED ON INFORMATION AND RECOMMENDATIONS PRESENTED IN THE GEOTECHNICAL REPORT NO. 18-23-3283 PREPARED BY ARDAMAN & ASSOCIATES INC., DATED NOV. 5, 2018. MAXIMUM ALLOWABLE AXIAL COMPRESSIVE CAPACITIES DERIVED FROM THE GEOTECHNICAL REPORT INFORMATION ARE AS FOLLOWS:
   - PILE TYPE 1: 6,000 LBS. (BASE BID EMBEDMENT) / 16,000 LBS (BID ALTERNATE EMBEDMENT)
   - PILE TYPE 2: 3,000 LBS. (BASE BID EMBEDMENT) / 6,000 LBS (BID ALTERNATE EMBEDMENT)
18. BLACK (DRY) SELF WEIGHT OF FRAMING MEMBERS
19. LIVE LOAD: 60 PSF

DEMOLITION AND CLEARING

20. THE CONTRACTOR SHALL FIELD VERIFY THE PRESENCE AND LOCATION OF EXISTING UTILITIES PRIOR TO COMMENCING CONSTRUCTION. LOCATIONS OF EXISTING UNDERGROUND UTILITIES/STRUCTURES MAY VARY FROM LOCATIONS SHOWN HEREON. ADDITIONAL BURIED UTILITIES/STRUCTURES MAY BE ENCOUNTERED. ANY UTILITIES DAMAGED BY THE CONTRACTOR OR SUBCONTRACTORS SHALL BE REPAIRED AT NO ADDITIONAL COST TO THE OWNER.
21. ALL ITEMS INDICATED TO BE DEMOLISHED AND NOT CLAIMED BY THE OWNER SHALL BECOME THE PROPERTY OF THE CONTRACTOR AND SHALL BE DISPOSED OF OUTSIDE OF PROPERTY IN CONFORMANCE WITH APPLICABLE LOCAL, STATE, AND FEDERAL REGULATIONS.
22. SAWCUTS SHALL BE USED FOR ALL PAVEMENT AND CURB REMOVALS WHERE EXISTING IMPROVEMENTS WILL REMAIN. EXISTING ASPHALT SHOWN TO REMAIN SHALL BE PROTECTED OR REPLACED IF DAMAGED DURING CONSTRUCTION.
23. PROTECT SHELLS & VEGETATION OUTSIDE THE LIMITS OF CONSTRUCTION. ANY DAMAGE TO EXISTING VEGETATION SHALL BE REPLACED BY CONTRACTOR AT NO ADDITIONAL COST TO OWNER.
24. THE CONTRACTOR SHALL COORDINATE WITH OWNER AND ENGINEER TO MINIMIZE THE EXTENT OF LAND AND DISTURBANCE IN CONFORMANCE WITH THE APPROVED CONSTRUCTION PLANS.
25. ALL AREAS OUTSIDE THE LIMITS OF CONSTRUCTION THAT ARE DISTURBED BY THE CONTRACTOR SHALL BE RESTORED TO THEIR ORIGINAL CONDITION (INCLUDING ROADWAYS, SWALES, DRIVEWAYS, AND VEGETATION) AT NO ADDITIONAL COST TO THE OWNER.
26. ALL WORK ASSOCIATED WITH TRENCH EXCAVATIONS EXCEEDING 5 FT IN DEPTH SHALL COMPLY WITH FLORIDA STATUTES 553.63.
27. EXISTING UTILITIES SHALL REMAIN IN SERVICE FOR THE DURATION OF CONSTRUCTION.
28. CONTRACTOR IS RESPONSIBLE FOR INSPECTING BOTTOM AT PIER DEMOLITION AREAS AND REMOVING ANY DEBRIS REMAINING AT THE COMPLETION OF DEMOLITION ACTIVITIES. DEBRIS REMOVAL AND OFF-SITE DISPOSAL SHALL FOLLOW ALL LOCAL, STATE AND FEDERAL REGULATIONS. SUBMIT CERTIFICATION THAT INDICATES ALL DEBRIS WAS REMOVED AS BASIS FOR ACCEPTANCE OF WORK COMPLETION.

SITE PLAN

29. PRIOR TO THE START OF CONSTRUCTION, THE CONTRACTOR SHALL OBTAIN THE SERVICES OF A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF FLORIDA TO LAY-OUT AND FIELD STAKE THE CONSTRUCTION SITE. ANY DISCREPANCIES SHALL BE IMMEDIATELY BROUGHT TO THE ENGINEER'S ATTENTION.
30. THE CONTRACTOR IS RESPONSIBLE FOR ESTABLISHING HORIZONTAL AND VERTICAL CONTROL FOR SITE CONSTRUCTION. ANY DISTURBED SURVEY MONUMENTATION SHALL BE REPLACED BY A SURVEYOR LICENSED IN THE STATE OF FLORIDA AT NO ADDITIONAL COST TO THE OWNER.
31. ALL TRAFFIC CONTROL DEVICES SHALL MEET THE REQUIREMENTS OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS PUBLISHED BY THE U.S. DEPARTMENT OF TRANSPORTATION AND FEDERAL HIGHWAY ADMINISTRATION AND F.D.O.T. ROADWAY AND TRAFFIC DESIGN STANDARDS.
32. THE CONTRACTOR SHALL USE A CERTIFIED CONSTRUCTION MATERIALS TESTING LABORATORY TO PROVIDE MATERIALS AND DENSITY TESTING IN ACCORDANCE WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS "FOR ROAD AND BRIDGE CONSTRUCTION, LATEST EDITION. TESTING REPORTS SHALL BE EMAILED TO THE ENGINEER'S OFFICE WITHIN 24 HOURS OF TESTING.
33. THE CONTRACTOR SHALL PROVIDE APPROPRIATE STORAGE AND LAYDOWN AREAS, SAFETY FENCING, BARRICADES, LANDSCAPING, ETC. AS REQUIRED TO MAINTAIN JOB SITE SAFETY.

MAINTENANCE OF TRAFFIC (MOT)

34. THE CONTRACTOR IS RESPONSIBLE TO PREPARE ANY NEEDED MOT PLAN(S) AND OBTAIN APPROVAL (S) AS REQUIRED.

MISCELLANEOUS

35. REFER TO REFERENCE SHEET G-101 FOR SURVEY DATA.
36. IN THE EVENT OF INCONSISTENCIES BETWEEN PARTS OF THE CONTRACT DOCUMENTS OR BETWEEN THE CONTRACT DOCUMENTS AND APPLICABLE STANDARDS, CODES AND ORDINANCES, THE CONTRACTOR SHALL PROVIDE THE BETTER QUALITY AND/OR GREATER QUANTITY OF WORK, OR COMPLY WITH THE MORE STRINGENT REQUIREMENT, EITHER OR BOTH IN ACCORDANCE WITH THE ENGINEER'S INTERPRETATION. DETAIL DRAWINGS TAKE PRECEDENCE OVER GENERAL DRAWINGS. ANY WORK SHOWN ON ONE DRAWING SHALL BE CONSTRUED TO BE SHOWN IN ALL DRAWINGS AND THE CONTRACTOR WILL COORDINATE THE WORK IN ALL DRAWINGS. IF ANY PORTION OF THE CONTRACT DOCUMENT SHALL BE IN CONFLICT WITH ANY OTHER PORTION, THE VARIOUS DOCUMENTS COMPRISING THE CONTRACT DOCUMENTS SHALL GOVERN IN THE FOLLOWING ORDER OF PRECEDENCE: THE OWNER/CONTRACT AGREEMENT AND MODIFICATIONS, ADDENDA, SUPPLEMENTARY CONDITIONS, TECHNICAL CONDITIONS, THE SPECIFICATIONS, THE DRAWINGS AS BETWEEN THEMSELVES, AND INFORMATION GIVEN ON DRAWINGS. THE SCHEDULES SHALL GOVERN AS BETWEEN FIGURES GIVEN ON DRAWINGS AND THE SCALE OF MEASUREMENT. THE FIGURES SHALL GOVERN AS BETWEEN LARGE SCALE DRAWINGS AND SMALL SCALE DRAWINGS. THE LARGER SCALE SHALL GOVERN. ANY SUCH CONFLICT OR INCONSISTENCY BETWEEN OR IN THE DRAWINGS SHALL BE SUBMITTED TO THE ENGINEER BEFORE PROCEEDING IN THE AREA OF DISCREPANCY, WHICH SHALL BE FINAL AND CONCLUSIVE.
37. ALL WORK SHALL BE EXECUTED IN FULL COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS GOVERNING WORKER SAFETY AND PUBLIC HEALTH.
38. ALL WORK SHALL CONFORM TO LOCAL, STATE, AND FEDERAL RULES PERTAINING TO PROTECTION OF THE ENVIRONMENT.
39. THE CONTRACTOR SHALL SUBMIT A PLAN FOR TEMPORARY CONSTRUCTION PARKING, TRAILER, AND MATERIAL LAYDOWN FOR APPROVAL BY THE OWNER'S REPRESENTATIVE. REFER TO DWGS FOR EXTENTS OF LAY DOWN AREA PERMITS.
40. THE CONTRACTOR SHALL ENSURE THAT ACCESS TO ACTIVE PARK OPERATIONS IS MAINTAINED.
41. ALL REQUIRED PERMITS SHALL BE OBTAINED PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE CONTRACTOR SHALL KEEP A COPY OF ALL PROJECT PERMITS AND APPROVED DRAWINGS ONSITE.
42. CONTRACTOR SHALL COORDINATE WITH THE OWNER REGARDING CONSTRUCTION HOURS OF OPERATION AND TEMPORARY SITE FENCING REQUIREMENTS DURING CONSTRUCTION. IT IS EXPECTED CONSTRUCTION OPERATIONS WILL BE LIMITED TO NORMAL BUSINESS HOURS, USUALLY BETWEEN 7:00 AM AND 6:00 PM, MONDAY THROUGH FRIDAYS.
43. CONTRACTOR SHALL MAINTAIN EMERGENCY VEHICLE AND PEDESTRIAN ACCESS AT ALL TIMES DURING CONSTRUCTION.

HISTORICAL RESOURCES PRESERVATION

44. IF PREHISTORIC OR HISTORIC ARTIFACTS, SUCH AS POTTERY OR CERAMICS, STONE TOOLS OR METAL IMPLEMENTS OR ANY OTHER PHYSICAL REMAINS THAT COULD BE ASSOCIATED WITH NATIVE AMERICAN CULTURES, OR EARLY COLONIAL OR AMERICAN SETTLEMENT ARE ENCOUNTERED AT ANY TIME WITHIN THE SITE AREA, THE PROJECT SHOULD CEASE ALL ACTIVITIES INVOLVING SUBSURFACE DISTURBANCE IN THE IMMEDIATE VICINITY OF SUCH DISCOVERIES. THE OWNER'S REPRESENTATIVE SHOULD CONTACT THE FLORIDA DEPARTMENT OF STATE, DIVISION OF HISTORICAL RESOURCES COMPLIANCE AND REVIEW SECTION AT (850) 245-6333. PROJECT ACTIVITIES SHOULD NOT RESUME WITHOUT VERBAL AND/OR WRITTEN AUTHORIZATION FROM THE DIVISION OF HISTORICAL RESOURCES.
45. IN THE EVENT THAT UNMARKED HUMAN REMAINS ARE ENCOUNTERED DURING CONSTRUCTION, ALL WORK SHOULD STOP IMMEDIATELY AND THE PROPER AUTHORITIES SHALL BE NOTIFIED IN ACCORDANCE WITH SECTION 872.05, FLORIDA STATUTES.

WOOD NOTES

46. WOOD FRAMING MEMBERS SHALL BE DOUGLAS FIR NO. 1 GRADE MARK OF AN AGENCY CERTIFIED BY THE BOARD OF REVIEW OF THE AMERICAN LUMBER STANDARD COMMITTEE ESTABLISHED UNDER PRODUCT PS 20 DEPARTMENT OF COMMERCE'S VOLUNTARY PRODUCT STANDARD PS 20.
47. FOR STRUCTURAL LUMBER PROVIDE THE FOLLOWING GRADE, SPECIES & INCISIONS:
   47.1. 2x6 2x8 & 2x10 DECK FRAMING: DENSE SELECT STRUCTURAL SOUTHERN PINE. DECK FRAMING MEMBERS SHALL BE TREATED WITH WATER-BORNE PRESERVATIVES IN ACCORDANCE WITH AWPA STANDARD U1, COMMODITY SPECIFICATION A, TO THE REQUIREMENTS OF USE CATEGORY 4B (UC4B).
   47.2. 2x10 & 2x12 DECK FRAMING: No2 DENSE SOUTHERN PINE. PIER FRAMING MEMBERS SHALL BE TREATED WITH WATER-BORNE PRESERVATIVES IN ACCORDANCE WITH AWPA STANDARD U1, COMMODITY SPECIFICATION A, TO THE REQUIREMENTS OF USE CATEGORY 4B (UC4B).
   47.3. ALL LUMBER SHALL BE AIR OR KILN DRIED AFTER PRESERVATIVE TREATMENT. MARK EACH PIECE WITH THE AWPA QUALITY MARK AS CERTIFICATION OF COMPLIANCE WITH THE SPECIFIED STANDARD REQUIREMENTS.
48. BOLTS USED AT WOOD CONNECTIONS SHALL BE MIN. 5/8" DIAMETER SYS SS.
49. ALL NAILS SHALL BE COMMON NAILS. WHEN SHANK NAILS OF COMMON NAIL DIAMETER ARE LESS NOTED OTHERWISE.
50. ALL SCREWS SHALL BE SYS SS, UNLESS NOTED OTHERWISE.

TIMBER PILES

51. TIMBER PILES IN ACCORDANCE WITH ASTM D25 REQUIREMENTS: MINIMUM BUTT DIAMETER MEASURED 3 FEET FROM PILE END SHALL BE 12". FOLLOW ASTM D25 REQUIREMENTS FOR MINIMUM TIP DIAMETER.
52. TIMBER PILES SHALL BE TREATED WITH WATER-BORNE, PRESERVATIVES IN ACCORDANCE WITH AWPA STANDARD U1, COMMODITY SPECIFICATION D, TO THE REQUIREMENTS OF USE CATEGORY 5C (UC 5C). ALL PILES SHALL BE AIR OR KILN DRIED AFTER PRESERVATIVE TREATMENT. PILES SHALL BEAR THE QUALITY MARK OF AN INSPECTION AGENCY CERTIFIED BY AN ACCREDITATION BODY IN FULL COMPLIANCE WITH THE AMERICAN LUMBER STANDARDS TREATED WOOD PROGRAM. THE QUALITY MARK SHALL BE A STAMP OR PHYSICAL LABEL AFFIXED TO THE TREATED WOOD MEMBERS AND SHALL INCLUDE THE FOLLOWING INFORMATION:
   - IDENTIFICATION OF TREATING MANUFACTURER, TYPE OF PRESERVATIVE USED, MINIMUM PRESERVATIVE RETENTION, AWPA STANDARD TO WHICH THE PRODUCT WAS TREATED AND IDENTIFY OF ACCREDITED INSPECTION AGENCY.
53. PILE INSTALLATION

PILE INSTALLATION SHALL BE IN ACCORDANCE WITH SECTION 455 OF THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, PARAGRAPHS 455-3, 455-5 AND 455-6, EXCEPT AS OTHERWISE SPECIFIED HEREIN.

IT IS THE DESIGN INTENT THAT TIMBER PILES ARE INSTALLED USING IMPACT-TYPE HAMMERS TO DESIGN TIP ELEVATION (AS INDICATED ON THE DRAWINGS). WATER JETTING IS ALLOWED TO INITIALLY SET PILES IN POSITION PRIOR TO IMPACT DRIVING TO FINAL DEPTH. INITIAL SET USING WATER JETTING SHALL NOT EXCEED ONE-HALF OF THE PILE EMBEDMENT DIMENSION INDICATED FOR EACH PILE TYPE.

PILE HAMMERS SHALL BE POWER-DRIVEN IMPACT-TYPE HAMMERS SUITABLE FOR DRIVING THE PILES TO DESIGN DEPTHS INDICATED THROUGH THE SUBSURFACE MATERIALS ENCOUNTERED. THE APPLICATION OF PILE HAMMER DRIVING FORCE AND ENERGY SHALL BE THROUGH THE CENTERLINE OF PILES. OPERATE HAMMERS IN ACCORDANCE WITH MANUFACTURER RECOMMENDED SETTINGS AND FOLLOWING THE WEAP ANALYSES INFORMATION.

PILE DRIVING ACCESSORIES: A DRIVING HELMET OR CAP, INCLUDING A CUSHION BLOCK OR CAP BLOCK SHALL BE USED BETWEEN THE TOP OF PILE AND HAMMER RAM TO PREVENT IMPACT DAMAGE TO THE PILES. THE DRIVING HELMET OR CAP AND CUSHION BLOCK COMBINATION SHALL BE CAPABLE OF PROTECTING THE PILE HEADS, MINIMIZE ENERGY DISSIPATION AND "TRANSMIT" HAMMER ENERGY UNIFORMALLY AND CONSISTENTLY DURING THE ENTIRE PILE INSTALLATION OPERATION. REPLACE CUSHION BLOCKS IF THEY ARE DAMAGED DURING PILE INSTALLATION. TEMPLATES SHALL BE USED TO ACCURATELY ALIGN THE PILING DURING INSTALLATION. USE OF TEMPLATES TO FIX DIMENSIONS, DESIGN AND CONSTRUCTION ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.

DRIVING: PILING SHALL BE DRIVEN WITHOUT SUBJECTING THE PILE TO SERIOUS INJURY OR DAMAGE. PILING DAMAGED DURING INSTALLATION SHALL BE REMOVED AND REPLACED BY CONTRACTOR AT NO ADDITIONAL COST TO OWNER.

DRIVE PILING AS PLUMB AS POSSIBLE, WITHIN A MAXIMUM OUT OF PLUMBNESS TOLERANCE FROM VERTICAL OF 1.5 DEGREES.

PILES SHALL BE FULLY SUPPORTED DURING DRIVING OPERATIONS IN ORDER TO PREVENT THEM FROM FALLING LATERALLY OUT OF LEADS FROM WIND, WAVE OR CURRENTS, ACCIDENTAL EQUIPMENT IMPACT OR ANY OTHER EFFECTS.

PRE-DRILLING INSTALLATION METHODS ARE PROHIBITED. WATER JETTING INSTALLATION METHODS ALLOWED ONLY TO INITIALLY SET PILES IN POSITION.

CONSTRUCTION BIDS SHALL INCLUDE COSTS ASSOCIATED WITH PROVIDING ADEQUATE EQUIPMENT TO PRE-DRILL THROUGH ANY OBSTACLES OR DENSE SOIL FORMATIONS THAT MIGHT BE ENCOUNTERED DURING PILE DRIVING OPERATIONS.

54. QUALITY ASSURANCE:
CONTRACTOR SHALL SUBMIT A PILE INSTALLATION PLAN AT LEAST 30 DAYS PRIOR TO THE START OF PILE INSTALLATION OPERATIONS. THE PLAN SHALL INCLUDE THE FOLLOWING:
   - DESCRIPTIONS OF PILE DRIVING EQUIPMENT, LEADS, HAMMERS, HOWLER, PLANE, LEADS, CUSHION MATERIAL, FOLLOWER AND TEMPLATES.
   - HAMMER SPECIFICATIONS INCLUDING RAM WEIGHT, RATED ENERGY, DIMENSIONS OF ALL COMPONENTS.

CONTRACTOR SHALL RETAIN SERVICES FROM A QUALIFIED PROFESSIONAL TO PERFORM WAVE EQUATION ANALYSIS FOR PILE EMBEDMENT. SUBMIT REPORT SUMMARIZING WEAP RESULTS. WEAP ANALYSES SHALL BE BASED ON IMPACT-TYPE HAMMER PARAMETERS PROVIDED BY MANUFACTURER, FOLLOW WEAP HAMMER GUIDANCE AS DOCUMENTED IN THE MOST RECENT FEDERAL HIGHWAY ADMINISTRATION (FHWA) HI-PILE GUIDANCE SUPPLEMENTAL UPDATES. THE WEAP ANALYSES WILL DETERMINE THE SUITABILITY OF THE CONTRACTOR'S PROPOSED PILE INSTALLATION SYSTEM AS WELL AS DETERMINE DRIVING RESISTANCE AND ESTIMATED PILE STRESSES DURING INSTALLATION. ALLOWABLE PILE STRESSES ARE LIMITED TO 3.8 KIPS PER SQUARE INCH (KSI).

CONTRACTOR SHALL SUBMIT PILE INSTALLATION RECORDS DOCUMENTING THE POSITION AND DRIVING RESISTANCE (BLOWS PER FOOT) OF EACH PILE AT EVERY FOOT OF PILE EMBEDMENT DEPTH.

CONTRACTOR IS RESPONSIBLE FOR HIRING SERVICES OF A QUALIFIED FLORIDA REGISTERED SURVEYOR TO LOCATE/RE-TIE POSITION OF ALL PILES AFTER INSTALLATION. SUBMIT SIGNED AND SEALED DRAWINGS THAT CONFIRM THE POSITION OF ALL PILES.

CONTRACTOR IS RESPONSIBLE FOR RETAINING SERVICES OF A QUALIFIED THIRD-PARTY GEOTECHNICAL ENGINEER TO MONITOR PILE INSTALLATION OPERATIONS. SUBMIT INSPECTION REPORTS ON A DAILY BASIS TO THE ENGINEER OF RECORD AND APPROVAL. THE GEOTECHNICAL ENGINEER WILL ESTIMATE PILE LOAD CAPACITY FROM DRIVING RESISTANCE RECORDS OBTAINED DURING PILE INSTALLATION MONITORING. ANY PILES DETERMINED TO PROVIDE INSUFFICIENT CAPACITY SHALL BE DRIVEN TO DEEPER DEPTHS. PROVIDE PRODUCTION PILES AT LEAST 5 FEET LONGER THAN THE SPECIFIED INSTALLED DIMENSIONS. ALL MATERIAL COSTS TO BE INCLUDED AS PART OF LUMP SUM BID. PROJECT DOES NOT INCLUDE PILE TESTING PROGRAM.

BASIS FOR PAYMENT: BIDS SHALL BE BASED ON PROVIDING AND INSTALLING THE QUANTITY AND LENGTH OF PILES AS SHOWN ON THE DRAWINGS. BIDS SHALL BE LUMP SUM. ADDITIONS OR REDUCTIONS TO LUMP SUM BIDS WILL BE BASED ON EPIC ACTUAL LENGTH OF INSTALLED PILING (INCLUDING THE UNIT PRICE DERIVED BY THE MATERIALS LUMP SUM BID FOR LENGTH OF PILING SHOWN ON THE DRAWINGS.

CONSTRUCTION BIDS

55. BASE BIDS SHALL INCLUDE ALL MATERIALS, LABOR, EQUIPMENT AND INCIDENTALS NECESSARY TO COMPLETE THE WORK INDICATED ON THE CONTRACT DOCUMENTS.
56. BID ALTERNATE PERTAINS ONLY TO ADDITIONAL LENGTH OF TIMBER PILING AS INDICATED ON DETAIL 4 DRAWING S-301.

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DOCUMENT HISTORY

REV.	DATE	DESCRIPTION

KIWANIS ISLAND PARK DOCK REPAIR
951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BREVARD COUNTY PARKS & REC

DRAWN BY: T.MONTEMAYOR
FL PE#59478

DESIGNED BY: T.MONTEMAYOR

CHECKED BY: D.ENAMORADO

PROJECT #: 2018
C:\2018\2018-001-00\1 - KIWANIS.DWG

DATE: 12/17/18

TITLE: GENERAL NOTES

DRAWING NO.: G-003

KIWANIS ISLAND PARK

PHOTO 1

PHOTO 2

DEMOLITION PLAN

NOTES:

1. SITE INFORMATION SHOWN ON THIS DRAWING IS BASED ON THE FOLLOWING SURVEYS: R.M. PAGGARD AND ASSOCIATES JOB NO. 19-180 DATED DEC. 5, 2019

2. ALL DIMENSIONS TO BE CONSIDERED APPROXIMATE UNTIL FIELD VERIFIED. CONTRACTOR TO BE RESPONSIBLE FOR ALL FIELD MEASUREMENTS NECESSARY FOR CONSTRUCTION. ANY CHANGES SINCE THE SURVEY WAS COMPLETED

3. REFER TO DWG. G-101 FOR SURVEY INFORMATION.

4. CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL SITE AND EXISTING CONDITIONS PRIOR TO BID AND CONSTRUCTION. USE OF THE PROVIDED INFORMATION IS AT THE CONTRACTOR'S SOLE RISK AND SHALL NOT BE CONSIDERED AS ANY RELIEF FOR ADDITIONAL COMPENSATION.

5. ELEVATIONS INDICATED AT TOP OF THE EXISTING WOOD DECK, PAVEMENT'S AND BOTTOM OF CREEK, TOPOGRAPHIC ELEVATIONS SHOWN ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM (NAVD 1988).

HORIZONTAL LOCATION COORDINATES ARE BASED ON FLORIDA STATE PLANE COORDINATE SYSTEM (EAST ZONE) AND NAD 83.

6. REFER TO DEMOLITION NOTES FOR EXISTING QUESTIONS ADDITIONAL INFORMATION.

7. PRIOR TO DEMOLITION OF THE EXISTING WOOD DOCKS HAS NOT BEEN INVESTIGATED FOR ASBESTOS CONTAINING MATERIALS (ACM). WOOD MAY CONTAIN ACM. CONTRACTOR IS TO ALLOW FOR ANALYSIS OF ACM COMPONENTS. WOOD PRESERVATIVES MAY ALSO BE PRESENT IN THE CURRENT CONDITION. CONTRACTOR IS FULLY RESPONSIBLE FOR MEANS AND METHODS OF CONSTRUCTION IN ACCORDANCE WITH ALL SAFETY DURING CONSTRUCTION.

8. ALL EXISTING WOOD PILINGS SHALL BE COMPLETELY REMOVED AND DISPOSED OFF SITE, LEAVING NO PORTIONS OF PILINGS IN PLACE OR FRACTURED.

9. ALL DEMOLISHED DEBRIS TO BE DISPOSED OF IN A PROPERLY PERMITTED LANDFILL (SEE BREVARD COUNTY PROJECT).

KEYNOTES ①:

1. EXISTING WOODEN DOCKS: REMOVE DOCK STRUCTURE IN ITS ENTIRETY INCLUDING ALL WOOD LIMITED TO WOOD PILES, DECKING AND FRAMING INCLUDING HARDWARE AND ASSOCIATED UTILITIES (IF ELEC. EQUATES). SEE NOTE 8.
2. INDICATES 14"-12" DIAMETER WOOD PILE LOCATION (TYP.) PLACES IL PETER TO SURVEY DRAWINGS ON G-101 FOR CENTERLINE OF PILE STATE PLANE COORDINATES AND TOP OF PILE ELEVATIONS.
3. EXISTING PARKING REMAIN
4. EXISTING ASPHALT TO REMAIN

LEGEND:

- PHOTO NUMBER AND DIRECTION
- EXISTING CONCRETE SLAB
- EXISTING ASPHALT ROADWAY
- EXISTING VEGETATION

SCALE: 1" = 10'

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ISSUED FOR CONSTRUCTION

DOCUMENT HISTORY		
REV.	DATE	DESCRIPTION

KIWANIS ISLAND PARK DOCK REPAIR
951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BREVARD COUNTY PARKS & REC

TOMAS MONTEMAYOR
FL 59425

DRAWN BY: CHARLENE NAMOHAOO

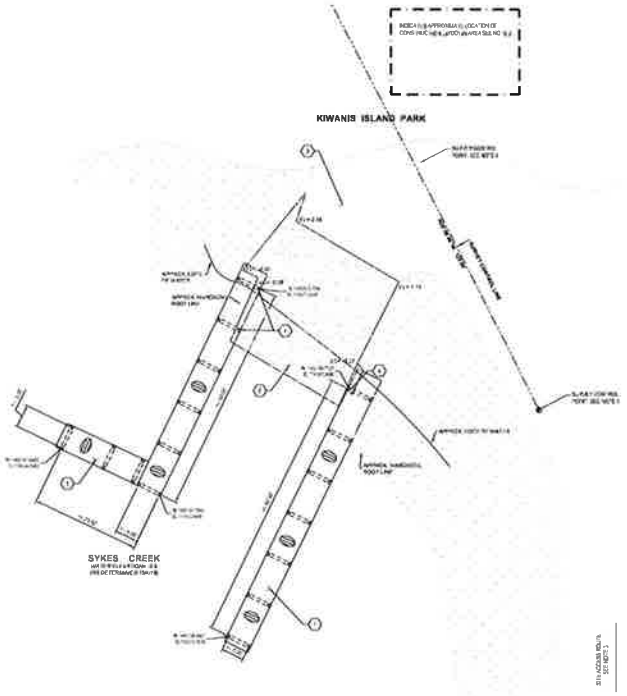
REVIEWED BY: RYAN OBERLE

PROJECT NUMBER: 0371.00.19-101 - KIWANIS.DWG

12/17/19

DEMOLITION PLAN

D-101



SITE PLAN

NOTES:

1. SITE INFORMATION SHOWN ON THIS DRAWING IS BASED ON THE FOLLOWING SURVEYS: REAL TECH LAND ASSOCIATES CORP. NO. 18-189 DATED OCT. 3, 2018.

   THE INFORMATION REFLECTS GENERAL CONDITIONS AT THE TIME MEASUREMENTS WERE TAKEN. SITE CONDITIONS MAY HAVE CHANGED SINCE THE SURVEY WAS COMPLETED.

   REFER TO SHEET C-101 FOR SURVEY INFORMATION.

   CONTRACTOR IS RESPONSIBLE FOR MEASURING THE SITE AND DETERMINING EXISTING CONDITIONS TO BE USED AS BASIS FOR ANY CONSTRUCTION USE. USE OF THE PROVIDED INFORMATION BY THE CONTRACTOR'S SOLE RISK AND SHALL NOT BE CONSIDERED FOR ANY REDUCTION ADDITIONAL COMPENSATION.

   TOPOGRAPHIC ELEVATIONS SHOWN ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 1988).

   HORIZONTAL LOCATION COORDINATES ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM (EAST ZONE), NAD 1983.

2. CONSTRUCTION LAYDOWN AREAS AS SHOWN ON THE DRAWINGS. THE EXTENTS OF THE MOBILIZING CONSTRUCTION SHALL BE COORDINATED WITH THE OWNER. THE EXTENTS OF THE LAYDOWN AREA WILL BE GRADUALLY ADJUSTED AS WORK PROGRESSES BASED ON OWNER'S OPERATIONAL REQUIREMENTS.

3. SITE ACCESS: REFER TO NOTE #2 ON DWG. C-000 FOR SITE ACCESS RESTRICTIONS AND LIMITATIONS DURING CONSTRUCTION.

KEYNOTES ⓘ:

1. APPROXIMATE LOCATION OF NEW PRECAST CONCRETE ACCESS RAMP WITH HANDRAIL
2. 4" THICK CONCRETE SLAB
3. EXISTING ASPHALT PAVEMENT
4. FOR BID PURPOSES CONTRACTOR TO ASSUME CONCRETE IS CORED SLEEVED TO ACHIEVE PILE INSTALLATION

LEGEND:

- EXISTING CONCRETE RAMP
- EXISTING ASPHALT ROADWAY
- EXISTING STRUCTURE

SCALE: 1" = 10'

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ISSUED FOR CONSTRUCTION

SHEET HISTORY

REV	DATE	DESCRIPTION

KIWANIS ISLAND PARK DOCK REPAIR

951 Kiwanis Island Park Rd, Merritt Island, FL 32952

BREVARD COUNTY PARKS & REC

TOMAS MONTEMAYOR
FL 69428

DARIUSH ENAMI RADO

RYAN OBERLE

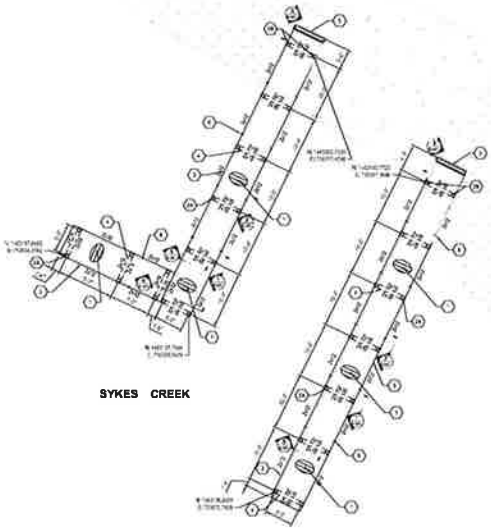
C0765.00-HC-101 - KIWANIS.DWG

10/17/18

SITE PLAN

C-101

KIWANIS ISLAND PARK



FRAMING PLAN

NOTES:

KEYNOTES ⓘ:

LEGEND:

- EXISTING CONCRETE RAMP
- EXISTING ASPHALT ROADWAY
- EXISTING GRASS / SOIL / MULCH

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KIWANIS ISLAND PARK DOCK REPAIR
951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BREVARD COUNTY PARKS & REC

T.MONTEMAYOR
PL PE#59475

DESIGNED BY
T.MONTEMAYOR

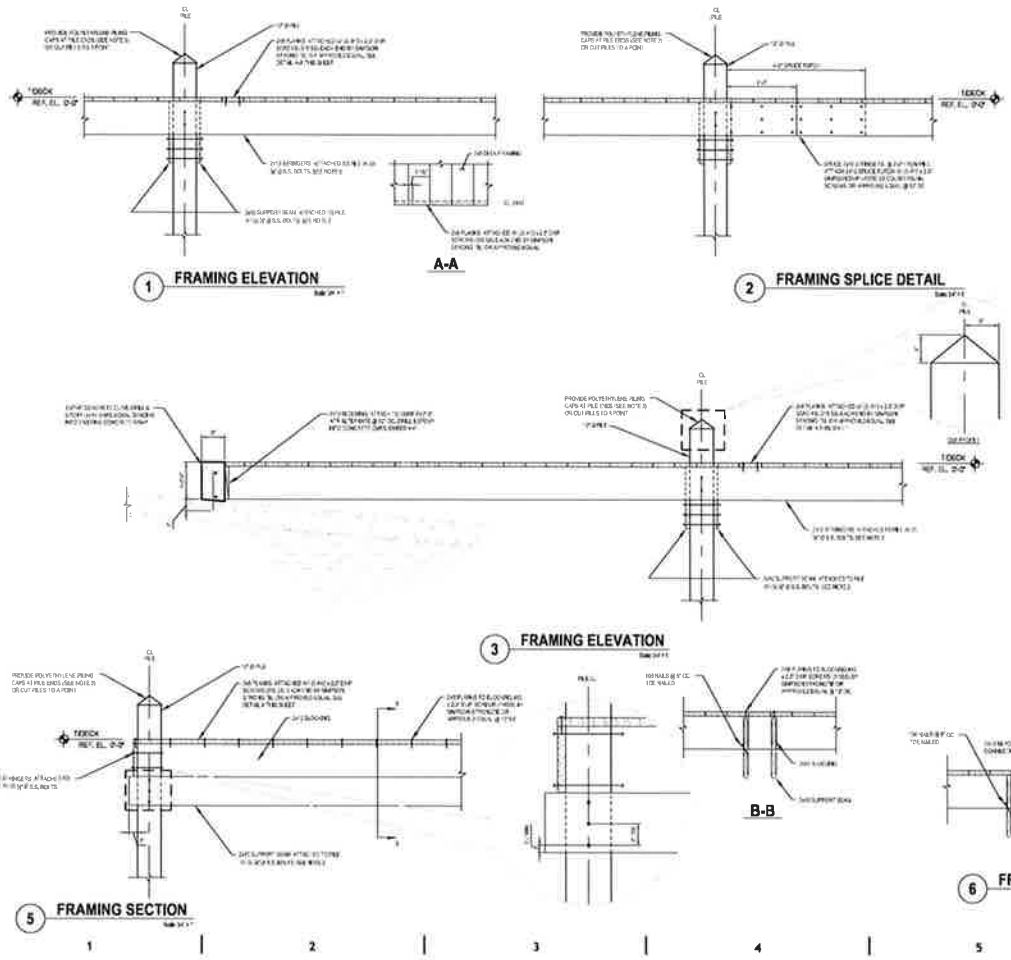
DRAWN BY
D.ENAMORADO

PROJECT NUMBER
CO/386.0015-131 - KIWANIS.DWG

DATE
12/17/18

TITLE
FRAMING PLAN

DRAWING NO.
S-101



NOTES:

1. REFER TO DETAILS SHEET S-501 FOR ADDITIONAL INFORMATION
2. INCLUDE 2 SS NUTS AND 2 WASHERS PER BOLT
3. USE ROUND BLACK DOME PILE CAPS ON DOCK BUILDING SUPPORT PILES AND ON SOME PILES AT DOCK ENDS
4. PILE EMBEDMENTS SHALL BE AS FOLLOWS:

	DESIGN	MIN REQUIRED
PILE TYPE 1	7'-0"	10'-0"
PILE TYPE 2	6'-0"	9'-0"

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DOCUMENT HISTORY

REV	DATE	DESCRIPTION

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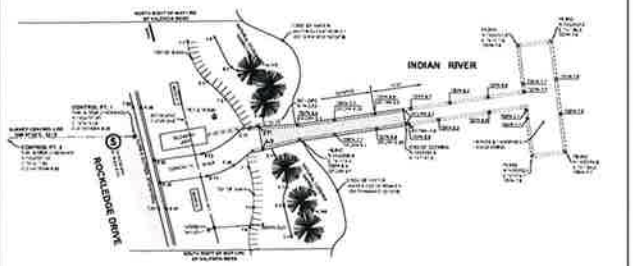
951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BREVARD COUNTY PARKS & REC

DRAWN BY
T.MONTEMAYOR
FL PE 65823
DESIGNED BY
T.MONTEMAYOR
CHECKED BY
O.ENAMORADO
PROJECT NUMBER
C07985.0015-131 - KIWANIS.DWG
DATE
12/17/18
TITLE
ENLARGED FRAMING PLAN
DRAWING NO
S-501

SPECIFIC PURPOSE SURVEY©

KIWANIS ISLAND



VALENCIA ROAD

GENERAL NOTES:

LEGEND OF ABBREVIATIONS

SURVEY NOTES (APPLICABLE TO "KIWANIS ISLAND" SITE):

SURVEY NOTES (APPLICABLE TO "VALENCIA" SITE):

r.m. packard
surveying & mapping

BREVARD COUNTY PARKS & RECREATION
& BRPH

DRAWN BY: MRC
CHKED BY:
DATE: 10/4/18
DWG #: D-18-60
NOTES: H&S
JOB #: "18-60

SHEET 1 OF 3

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KIWANIS ISLAND PARK DOCK REPAIR
951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BREVARD COUNTY PARKS & REC

DATE OF RECORD
T.MONTEMAYOR
FL PE #58725

DESIGNED BY
T.MONTEMAYOR

DRAWN BY
D.ENAMORADO

PROJECT NUMBER
C07365.001

DATE
12/17/18

TITLE
SURVEY DRAWING

DRAWING NO.
R-101

SITE LOCATION MAP

LEGEND

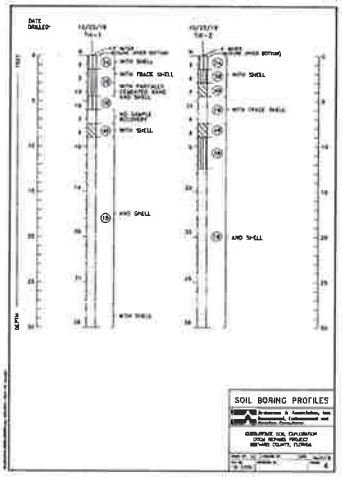
BORING LOCATION PLAN

LEGEND

SOIL DESCRIPTIONS

COLORS

SOIL PROFILES LEGEND



SOIL BORING PROFILES

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NO.	DATE	DESCRIPTION

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951 Kiwanis Island Park Rd, Merritt Island, FL 32952
BREVARD COUNTY PARKS & REC

PM OF RECORD
T.MONTEMAYOR
FL PE#59475

DESIGNED BY
T.MONTEMAYOR

DRAWN BY
D.ENAMORADO

PROJECT NUMBER
0319B5.001

DATE
10/17/19

TITLE
GEOTECHNICAL SOIL BORINGS

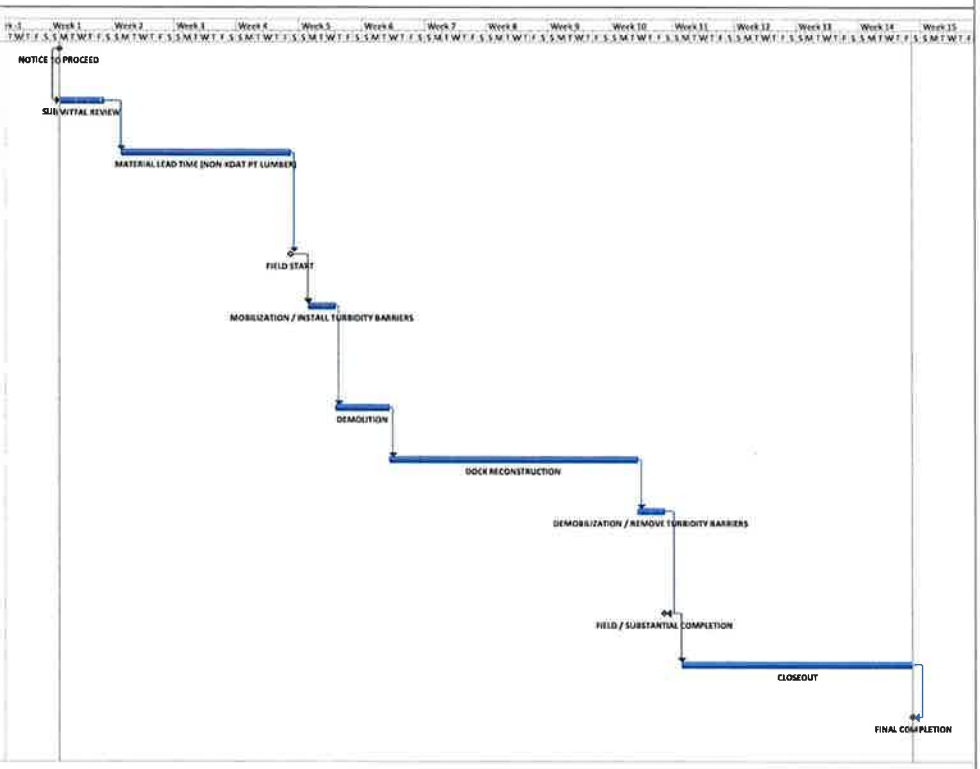
DRAWING NO.
R-102

Attachment "E"

Contractor's Preliminary Construction Schedule

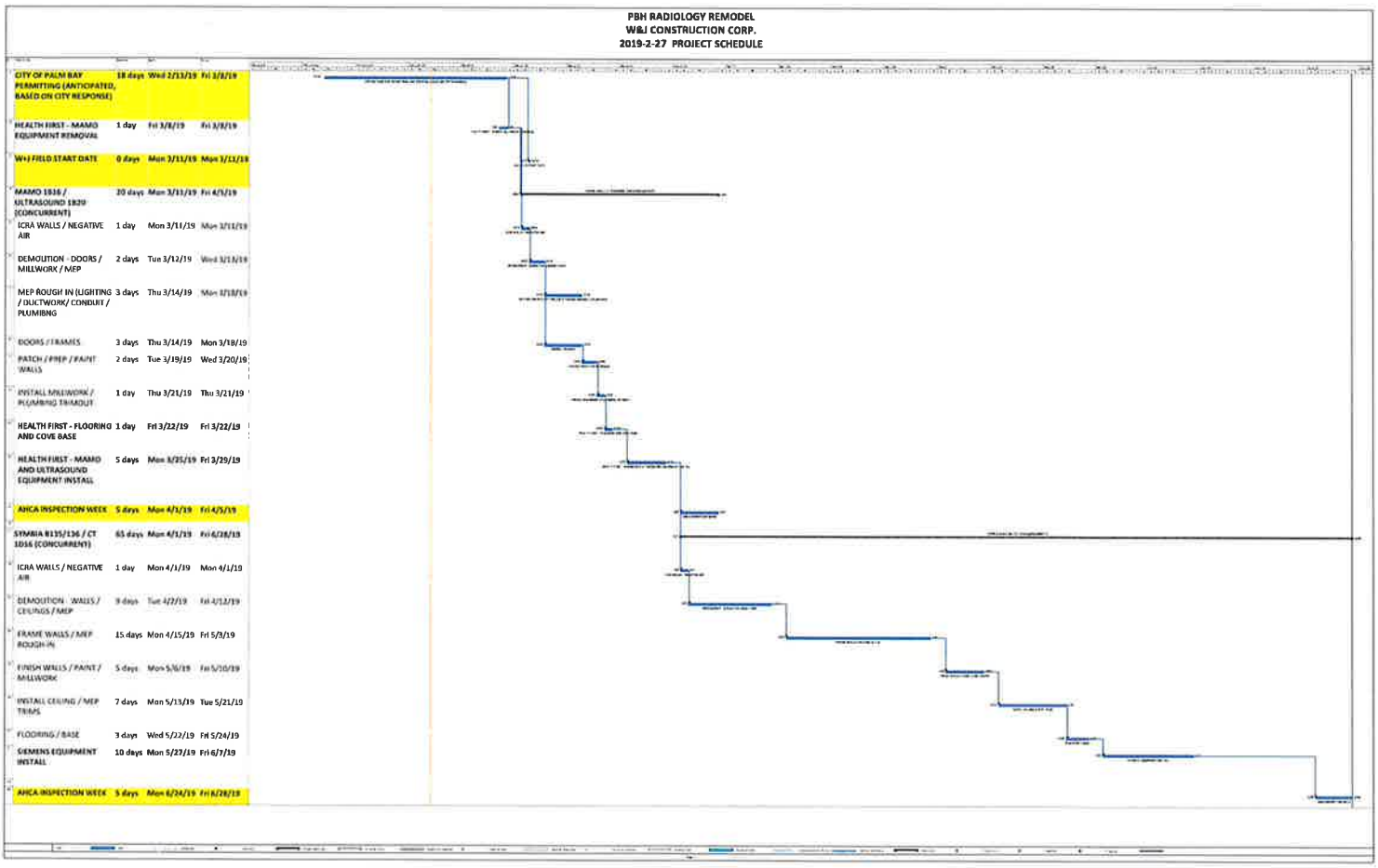
KIWANIS ISLAND PARK DOCK REPAIR
W&J CONSTRUCTION CORP.
2019-2-27 PROJECT SCHEDULE
(ALL DURATIONS IN WORK DAYS)

	Task Name	Duration
1	**NOTICE TO PROCEED**	0 days
2	SUBMITTAL REVIEW	5 days
3	MATERIAL LEAD TIME (NON-KDAT PT LUMBER)	15 days
4	**FIELD START**	0 days
5	MOBILIZATION / INSTALL TURBIDITY BARRIERS	3 days
6	DEMOLITION	4 days
7	DOCK RECONSTRUCTION	20 days
8	DEMOBILIZATION / REMOVE TURBIDITY BARRIERS	3 days
9	**FIELD / SUBSTANTIAL COMPLETION**	0 days
10	**CLOSEOUT**	20 days
11	**FINAL COMPLETION**	0 days



Task | Summary | External Milestone | Inactive Summary | Manual Summary Rollup | Finish-only
Split | Project Summary | Inactive Task | Manual Task | Manual Summary | Deadline
Milestone | External Tasks | Inactive Milestone | Duration-only | Start only | Progress

PBH RADIOLOGY REMODEL
W&I CONSTRUCTION CORP.
2019-2-27 PROJECT SCHEDULE



CITY OF PALM BAY PERMITTING (ANTICIPATED, BASED ON CITY RESPONSE)	18 days	Wed 2/13/19	Fri 3/8/19
HEALTH FIRST - MAMO EQUIPMENT REMOVAL	1 day	Fri 3/8/19	Fri 3/8/19
W+J FIELD START DATE	0 days	Mon 3/11/19	Mon 3/11/19
MAMO 1816 / ULTRASOUND 1829 (CONCURRENT)	20 days	Mon 3/11/19	Fri 4/5/19
ICRA WALLS / NEGATIVE AIR	1 day	Mon 3/11/19	Mon 3/11/19
DEMOLITION - DOORS / MILLWORK / MEP	2 days	Tue 3/12/19	Wed 3/13/19
MEP ROUGH IN (LIGHTING / DUCTWORK/ CONDUIT / PLUMBING	3 days	Thu 3/14/19	Mon 3/18/19
DOORS / FRAMES	3 days	Thu 3/14/19	Mon 3/18/19
PATCH / PREP / PAINT WALLS	2 days	Tue 3/19/19	Wed 3/20/19
INSTALL MILLWORK / PLUMBING TRIMOUT	1 day	Thu 3/21/19	Thu 3/21/19
HEALTH FIRST - FLOORING AND COVE BASE	1 day	Fri 3/22/19	Fri 3/22/19
HEALTH FIRST - MAMO AND ULTRASOUND EQUIPMENT INSTALL	5 days	Mon 3/25/19	Fri 3/29/19
AHCA INSPECTION WEEK	5 days	Mon 4/1/19	Fri 4/5/19
SYMBIA B135/136 / CT 1016 (CONCURRENT)	65 days	Mon 4/1/19	Fri 6/28/19
ICRA WALLS / NEGATIVE AIR	1 day	Mon 4/1/19	Mon 4/1/19
DEMOLITION - WALLS / CEILINGS / MEP	9 days	Tue 4/2/19	Fri 4/12/19
FRAME WALLS / MEP ROUGH-IN	15 days	Mon 4/15/19	Fri 5/3/19
FINISH WALLS / PAINT / MILLWORK	5 days	Mon 5/6/19	Fri 5/10/19
INSTALL CEILING / MEP TRIMS	7 days	Mon 5/13/19	Tue 5/21/19
FLOORING / BASE	3 days	Wed 5/22/19	Fri 5/24/19
SIEMENS EQUIPMENT INSTALL	10 days	Mon 5/27/19	Fri 6/7/19
AHCA INSPECTION WEEK	5 days	Mon 6/24/19	Fri 6/28/19

Attachment "F"

Ordinance 98-37

An Ordinance amending Chapter 2 of the Brevard County Code to create Article VII, a Procedure for Prequalifying Construction Contractors, for Competitive Bidding Criteria and for Debarment of Construction Contractors and Sureties; Providing for alternative Construction Delivery Methods; Providing for Prequalification and Competitive Bidding Criteria, Procedure, and for a Standard of Proof; Providing for Editing of the Ordinance for Inclusion within the Brevard County Code; Providing for Severability; and Providing an Effective Date.

Whereas, Section 255.20, Fla. Stat. (1997) requires that standards and procedures for determining the lowest qualified and responsive bidder or award of a construction contract under and delivery method be established if a bidder is selected for any reason other than price; and

Whereas, the Board has determined that it is in the public's best interest to provide such standards and procedures so that the Board may select the most qualified and responsive bidder; and

Whereas, the Board has determined that is in the public's best interest to prevent construction firms and sureties who have defaulted on a previous contract with the County from future bidding on County projects through a debarment procedure;

Therefore, be it ordained by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1: Chapter 2 of the Brevard County Code shall be amended to create Article VII as follows:
Definitions: The following words shall have these meanings throughout this article:

"Affected Party" means an individual or business which has submitted a bid, offer, proposal, quotation, or response which is rejected, or is found unqualified under the provisions of this article, or which would be selected if a low bidder was found unqualified or nonresponsive.

"Board" means the Board of County Commissioners of Brevard County, Florida.

"Committee" means two or more persons designated to evaluate prequalification and

responsiveness criteria. Committees established by the County Manager may be intradepartmental, or include representatives of several departments interested in the administration and success of the construction project.

"Debarment" means the exclusion for cause of a vendor or contractor, or subcontractor from bidding or doing business with the County on a temporary or permanent basis.

"Minor Irregularity" means a variation from the Invitation to Bid which does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders, or does not adversely impact the interests of the agency.

"Qualified Bidder" means an individual or business which has submitted a bid, offer, proposal, quotation, or response, which has the capability in all respects to fully perform the contract requirements, and has the financial stability, honesty, integrity, sill, business judgement, experience, facilities and reliability necessary to give reasonable assurance of good faith and performance.

"Request for Qualification" ("RFQ") means the process by which the County may prequalify individuals or businesses for a particular project before request5ing bids for the project, thereby limiting the pool of bidders to these prequalified.

"Responsive Bidder" means an individual or business which has submitted a bid, offer, proposal, quotation, or response, which conforms in all material respects to the solicitation, including but not limited to compliance with the submittal of specified insurance and bond requirements.

1. Any County Contract for the construction or improvement of a public building, structure, or other public construction work that is estimated in accordance with general accounting principles to have construction costs of more than fifty thousand dollars shall be competitively awarded to the lowest, qualified and responsive bidder in accordance with this article, unless the project (1) fits within exceptions set for in s. 255.20, Fla. Stat., as amended from time to time, (2) is a contract governed by the Consultant's Competitive Negotiation Act, or (3) is awarded under another contract delivery method authorized by this article. Nothing in this article shall be construed to require competitive award of every County construction work, not to prohibit the Board from rejecting all bids if competitively bid, or to prevent the board from waiving minor irregularities in any bid.

2. (a) Potential lump sum bidders responding to a request for qualifications are required to submit information required by this article and as identified in the RFQ package. A committee identified in the RFQ package will determine whether a potential bidder is qualified and responsive as defined in this article.

   (b) For projects advertised for lump sum bid without prior prequalification, the apparent low bidder, after the formal bid opening, will be required to submit the following prequalification

information identified in the bid package within five business days after the bid opening. Failure to provide prequalification information within this time frame may be considered as grounds for finding the apparent low bidder nonresponsive. If the apparent low bidder cannot provide adequate documents for review, or the submitted documents indicate the apparent low bidder or any subcontractors are not qualified, or if the bidder's package is determined to be nonresponsive, the Committee will reject the bidder or any of its subcontractors. In the event the bidder is found unqualified or non-responsive, the apparent second low bidder will be contacted and afforded the previous mentioned five days to submit pre-qualification documents. This process will continue until the lowest qualified and responsive bidder is established. In the even that a subcontractor is found unqualified or non-responsive, the potential bidder or prime contractor will have five business days to submit a substitute subcontractor for the same bid price or withdraw the original bid.

(c) In addition to lump sum contracts for construction, the Board may use the following delivery methods for construction or improvement of a public building, structure, or other public construction work: construction manager, design/build, or continuing contracts based on unit prices. The Board may also enter into continuing contracts with construction managers using the pre-qualification procedure set forth herein for potential lump sum bidders. The individual projects shall be awarded under a continuing contract using the following criteria:

> Ability of professional personnel given project's special characteristics; past performance, willingness to meet time and budget requirements; location; recent, current and projected workloads of the firms available under continuing contract; volume of work previously awarded to each firm under a continuing contract provided distribution does not violate the principle of selection of the most qualified firm for the project; previous experience on County Projects.

The County Manager will establish procedures for the Board to hear any affected party with a complaint or appeal as to any recommendation or finding made pursuant to this article. Any affected party's complaint or appeal must be presented, in writing, to the County Manager's Office within five (5) business days of the posting of a committee's decision.

(d) At the completion of each competitively awarded County construction project, the County department which administered the construction contract shall complete an evaluation of the contractor's performance on a form to be established by the County Manager. The department may also complete evaluations of critical subcontractors using the same form. All such records shall be copied to the party evaluated and maintained by County Purchasing. Any party evaluated may submit a written response of any length, which response shall be filed with the evaluation.

3. Potential bidders, the apparent lowest bidder, or the person providing services under any

other contract delivery method, and applicable subcontractors identified in the bid or request for qualification package for any County construction project which is to be competitively awarded shall be evaluated to determine whether the bidder and its subcontractors are qualified. In evaluating qualifications, the County shall consider the following information:

- A Contractor's Pre-Qualification Statement for the prime contractor and subcontractors performing parts of work identified in the bidding documents as critical to the project's success. The Pre-Qualification Statement shall be provided on a form to be established by the County Manager;

- Most current financial statement, but not more than one year old, indication of bondability, or if project is under $100,000, other evidence of financial capability as identified in the bid documents;

- Resumes of Contractor and Subcontractor's key personnel, including project manager and superintendent levels, showing job history, education related to work to be performed and any license, training, and experience related to the work which that individual will perform;

- List of subcontractors and suppliers, and items of work to be performed by the Contractor's own work force;

- County evaluations of the performance on County Projects;

- References obtained from individuals or businesses with whom the contractor or subcontractor has performed work or conducted business;

- Any other relevant qualifications, data or information identified in the bidding documents to be critical to the success of the project.

4. The County Manager will establish committees which may debar a contractor, contractor's key personnel, contractor's surety, subcontractor and subcontractor's key personnel, or any entity which key personnel are later employed or retained by in a supervisory position, from bidding on any County project under the circumstances enumerated below. The decision to disbar is discretionary, the seriousness of the offense and all mitigating factors should be considered in making the decision to disbar. The notice of debarment shall state the time when such debarment will be lifted, if ever, and the contractor's right to appeal such debarment to the Board of County Commissioners under the Board's regular agenda. The Board reserves the power to waive or lift any committee imposed suspension or debarment.

   An individual or business may be permanently debarred for any of the following reasons: Conviction or a judgment obtained in a court of competent jurisdiction for:

- Commission of a fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;
- Violation of any Federal or State of Florida anti-trust or anti-racketeering statutes arising out of submission of bids or proposals;
- Commission of embezzlement, theft, forgery, bribery, falsification of or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a County contractor, subcontractor or vendor;
- If the conviction or judgment is reversed on appeal, the debarment shall be removed upon receipt of notification thereof.

Competent and substantial evidence of a violation of a County contractor provision, as set forth below, when the violation is of a character so as to justify debarment action such as:

- Failure to perform in accordance with the specifications or delivery requirements in a contract;
- A history of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts; provided, that such failure or unsatisfactory performance is within a reasonable period of time preceding the determination to debar. Failure to perform for unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered as a basis of debarment.

Upon adequate evidence, an individual or business may be temporarily debarred for a period up to three years based upon substantial evidence of involvement in any of the causes cited in paragraph (b) above.

Section 2: Inclusion in Code: It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Brevard County Code; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intentions.

Section 3: Severability: If any provision of this ordinance is held to be illegal or invalid, the other provision shall remain in full force and effect.

Section 4: Effective Date: This ordinance shall become effective upon filing as provided by law. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten days of enactment.

Attachment "G"

Public Construction Bond

By this Bond, We **W & J Construction Corporation** as Principal and { }, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called County, in the sum of **One Hundred Fifty-Eight Thousand Three Hundred Thirty-Eight Dollars**, for payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.
The Conditions of this Bond are that if Principal:

1. Promptly makes payments to all claimants, as defines in Section 255.05(1), Florida Statutes, supply Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract dated { }, between Principal and County for construction of dock replacement at Kiwanis Island Park, the contract being attached hereto and made part of this bond by reference, in such time and without delay, and in the manner prescribed in the contract; and
2. Pays County all losses, damages, expenses, costs and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the contract, then this bond is void; otherwise it remains in full force. Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract does not affect Surety's obligation under this bond.

Signed and sealed this { } day of { }, 2019.

Witness: W & J Construction Corporation Seal

_____ Its:_____

Title: President

Witness: Surety Seal

_____ Its:_____

Title:_____

Attachment "H"

Public Construction Performance Bond

By this Bond, We **W & Construction Corporation** as Principal and { }, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called County, in the sum of **One Hundred Fifty-Eight Thousand Three Hundred Thirty-Eight Dollars**, for payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.
The Conditions of this Bond are that if Principal:

1. Performs promptly, completely and faithfully the contract dated { }, between Principal and County for construction of dock replacement at Kiwanis Island Park, the contract being attached hereto and made part of this bond by reference, in such time and without delay, and in the manner prescribed in the contract including the delivery, execution and performance of any warranty work required by the contract; and
2. Pays County all losses, damages, expenses costs and attorney's fees, including appellate proceedings, that County sustains because of default by Principal under the contract; and
3. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract does not affect Surety's obligation under this bond.

Signed and sealed this { } day of { }, 2019.

Witness: W & J Construction Corporation Seal

_____ Its:_____

Title: President

Witness: Surety Seal

_____ Its:_____

Title:_____

Attachment "I"

Contractor's Guaranteed Maximum Price

W+J CONSTRUCTION

January 29, 2019

Michael Butcher
Brevard County Parks & Recreation

Via email: michael.butcher@brevardfl.gov

RE: Kiwanis Island Park

Dear Mr. Butcher,

W+J Construction Corporation is pleased to provide a base bid estimate of **($158,388.00)** for the project located at 951 Kiwanis Island Park Rd., Merritt Island, Florida per the Plans dated 12/17/2018:

Scope with Clarifications and Exclusions:

1) Building permits and fees are Excluded.
2) All work to be completed during daytime hours.
3) Mobilization/Demobilization Pile Driving Barge (To meet specs).
4) Remove and Dispose of balance of 2 Ramp Piers/Docks.
5) All work to be completed per plans by BRPH Issued for Construction, dated 12/17/2018, Project Number C07595.001/G-001 – KIWANIS.DWG
6) Rock Punching Cost included (as per specs).
7) Typical Type 2 X 5' Deep Turbidity Curtains around work area included.
8) Alternate Bid Cost for 20' Embedment is $27,556.00.
9) Costs do not include a weap analysis – if required/by Wilco Construction to be an extra at $23,600.00. Such is not typical by any means for this application – we suggest a minimum penetration of 10 FT. into sound substrate and a minimum boring capacity per piling of 5 tons/10 Kips (to be confirmed by E.N. formula this would be typical for this application).
10) Payment Terms are Net 30.
11) For the Pile location, we will stake to existing locations. Should you need full survey, we will provide additional cost.

We appreciate this opportunity to provide this estimate and look forward to your favorable selection of W+J. If you have any questions or require further information, please do not hesitate to contact me at 321.632.7660 or at steve@wjconstruction.com .

Sincerely,

W+J Construction Corp.
A Florida Corporation

Steve Carlyle
Chief Estimator

Item	Sec	Description	Material	Labor	Sub	Subcontractor Name
		A/E Design Phase Fees	0	0	0	By Owner
		A/E Construction Phase Fees	0	0	0	By Owner
		General Conditions				
1.		General Conditions	0	10,450	8,545	W&J
2		Monitoring	0	0	21,090	Remsa
		Dock Reconstruction				
3		Concrete Cores	0	0	2,400	W&J
4		Construction Staking	0	0	0	**Excluded**
5		Dock Work	0	0	79,750	Wilco
		Subtotals	0	10,450	111,785	
		Sales Tax/PT&I (7/40)	0	4,180		
		Total	0	14,630	14,630	
					126,415	
		Permit Allowance			0	**By County**
		General Liability Insurance (%)			1,505	
		Builder's Risk (Per $100)			830	
		Contingency (%)	5.00		6,321	
		Bond			1,980	
		Hurricane Surcharge	1.50%		35	
		Cost			137,085	
		Overhead	6.0%		8,225	
		Subtotal			145,310	
		Profit	9.0%		13,078	
		Total Bid			158,388	

Attachment "J"

Application and Certificate for Payment

Attachment "K"

Certificate of Final Completion

Project Number and Title:_____

Architect:_____ Contractor:_____

Contract Date:_____ Date of Final Completion:_____

Certificate of Architect/Engineer (A/E):

Based on my inspections and investigation of the Contractor's work under the above referenced contract, I certify that the work, in general, has been completed in accordance with the contract documents, that all matters previously brought to the Contractor's attention as incomplete or defective have been resolved pursuant to my direction, and that the Contractor has submitted the attached sworn affidavit as evidence that the Contractor has paid all labor, materials, and other charges against the project in accordance with the terms of the Contract.

A/E Firm Name:_____ By:_____

(Below to be Completed by A/E):

Through the Substantial Completion Phase: DATE:_____ DAYS:_____

1. Notice to Proceed (NTP):
2. Time Specified in Original Contract for Substantial Completion (SC):
3. Extension granted by Change Order: (days between original contract SC and Final Contract SC)
4. Total Days Allowable to Substantial Completion: (add lines 2 and 3)
5. Project Substantially Completed as Certified by A/E:
6. Substantial Completion Overrun: (subtract line 4 from 5 and enter overrun)

Through the Final Completion Phase: DATE:_____ DAYS:_____

1. Time Specified in Contract, between SC and Final Completion (FC):
2. Extensions granted by Change Orders: (Days between SC and FC)
3. Total Days allowable between SC and FC: (add lines 1 and 2)
4. Date Actually Completed and Total Days between and Date Certified by A/E as actually being FC:
5. Final Completion Overrun (subtract line)

Architect:_____ Date:_____

Project Manager:_____ Date:_____

Attachment "L"

Allowable Costs, Overhead

Kiwanis Park *Attachment L Breakdown* **Cal. Days: 42 Months:1.5**
Work Days: 30 Weeks:6

Description	No.	Calculation	Qty	Unit	U.P. Mat'l	Material	U.P. Labor	Labor
Project Manager		Includes Burden	6	wks	0	0	420	2,520
Estimating		Includes Burden	1	wks	0	0	2,380	1,700
Pickup Trucks			6	wks	450	2,700	0	0
Gas/Oil /Lubrication			6	wks	80	480	0	0
Office Phones			1	ls	200	200	0	0
Office Supplies			6	mon	35	210	0	0
Warranty			1	ls	415	415	0	0
TOTAL						4,005		4,220

Attachment "M"

General Conditions

Kiwanis Park *Attachment M* **Cal. Days: 42 Months:1.5**
Work Days: 30 Weeks:6

Description	No.	Calculation	Qty	Unit	U.P. Mat'l	Material	U.P. Labor	Labor
Superintendent			6	wks	0	0	1,500	9,000
Quality Control			0	wks	0	0	0	0
Progress Photos		Progress & Existing Conditions	6	wks	25	150	0	0
Construction Power			1.50	mon	1,000	1,500	0	0
Ice Water			30	wd	5	150	0	0
Toilets			1.50	mon	240	360	0	0
Daily Clean Up			30	wd	5	150	25	750
Final Clean Up			1	sf	0.00	0	300	300
Dump Fees			3	loads	350	1,050	0	0
Construction Drawings			1	ls	400	400	0	0
Safety/First Aid			1	ls	200	200	0	0
Barricades/Fencing			1	ls	1,250	1,250	400	400
Builders Risk Insurance			1	ls	825	825		
Expendables			1	ls	800	800	0	0
						---		---
TOTAL						6,835		10,450

Attachment "N"

Application and Certificate for Payment

Attachment "O"

Vendor Affidavit Regarding Scrutinized Company List

Pursuant to Section 2987.135(2), Florida Statutes, a company is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local government entity for goods or services of $1 million or more if at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company: (1) is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.475, or is engaged in a boycott of Israel; (2) is 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 s. 215.473 or (3) is engaged in business operations in Cuba or Syria.

If the bidder or contractor is found to have falsified the attached affidavit, the Board of County Commissioners of Brevard County may terminate the contract or reject the bid.

State of Florida
County of Brevard

Before me, the undersigned authority, personally appeared **Nick Witek**, who, being by me first duly sworn, made the following statement:

1. The Business address of **W & J Construction Corporation, 1038 Harvin Way, Suite 120, Rockledge, Florida 32955**.
2. My relationship to **W & J Construction Corporation** is **President**.
3. I understand that "Boycott of Israel" has the same meaning as defined in Section 215.4725, Florida Statutes, and means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. A statement by a company that is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the State Board of Administration to be evidence that a company is participating in a boycott of Israel. The term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel.
4. I understand that "business operations" means, for purposes specifically related to Cuba

or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment or any other apparatus of business or commerce.

5. **W & J Construction Corporation** is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.
6. **W & J Construction Corporation** is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy List, created pursuant to Section 215.473, Florida Statutes.
7. **W & J Construction Corporation** is not engaged in business operations in Cuba or Syria.

_____

Signature

SWORN to and subscribed before me in the State and County first mentioned above on the { } day of { }, 2019.

_____

Notary Public (affix seal)

My Commission Expires:

Attachment "P"

Minority Employment Information

The Board of County Commissioners requires construction contractors, who would otherwise be required to file an Equal Employment Opportunity (EEO) Form 1 Report under Federal Law (currently Federal law requires filing for employers with more than 15 employees), to submit an EEO Form 1 Report with the submission of their GMP. This requirement extends to any subcontractors who are required to submit the EEO Form 1 Report (over 15 employees) under Federal law. Failure to submit an Acknowledgement and/or EEO Form 1 Report with your Guaranteed Maximum Price will be reason to declare your proposal "non-responsive" to the proposal requirements. However, the information will be used for statistical purposes only and will not be used in any way as a basis to award a contract.

Please fill out and sign **one** of the following statements:

1. My Company or subcontractors are required to submit the EEO Form 1 Report and they are attached.

   Company Name: **W & J Construction Corporation**
   Signature:_____ Date:{ }

2. My Company or subcontractors are not required to submit the EEO Form 1 Report.

   Company Name: **W & J Construction Corporation**
   Signature:_____ Date:{ }

Company Name: **W & J Construction Corporation**

Company Address: **1038 Harvin Way, Suite 120, Rockledge, Florida 32955**

Company Telephone: (321) 632-7660

Signature:_____ Printed: **Nick Witek**

Attachment "Q"

Public Entity Crime Acknowledgment

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/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for Category Two (Fifteen Thousand Dollars) for a period of thirty six months from the date of being placed on the convicted vendor list.

Non Collusion Affidavit of Prime Bidder

State of Florida
County of Brevard

Nick Witek, being duly sworn, deposes and says that:

1. Affiant is **Presdient** of **W & J Construction Corporation**, the Bidder that has submitted a bid/quote/proposal;

2. Affiant is fully informed respecting the preparation and contents of the bid/quote/proposal and of all pertinent circumstances respecting such bid/quote/proposal;

3. Such bid/quote/proposal is genuine and is not a collusive or sham bid/quote/proposal;

4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham bid/quote/proposal in connection with the Contract for which the bid/quote/proposal has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by Contract, or has in any manner, directly or indirectly, sought by the agreement or collusion of communication or conference with any other bidder, firm or person to fix the price or prices in the bid/quote/proposal or of any other Bidder, or to fix any overhead, profit or cost element of the bid/quote/proposal price or the bid/quote/proposal price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Board of County Commissioners of Brevard County, Florida, or

any person interested in the contract; and

5. The price or prices negotiated for the bid/quote/proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties of interest, including affiant.

_____

Signature and Title

SWORN to and subscribed before me in the State and County first mentioned above on the { } day of { }, 2019.

_____

Notary Public (affix seal)

My Commission Expires:

Brevard County Parks and Recreation Department

OWNER - CONTRACTOR

CONTRACT

THIS AGREEMENT, made this _____ day of _____ 2018, by and between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA** (herein referred to as the "Owner"), whose mailing address is 2725 Judge Fran Jamieson Way, Building B, Second Floor, Viera, Florida 32940 and **Loyd Custom Marine, Inc.** (herein referred to as the "Contractor"), whose mailing address is 3838 S. Hopkins Avenue, Titusville, FL 32780. All correspondence, submittals and notices relating to or required under this Contract shall be sent, in writing, to the Contractor's address above; unless either party is notified, in writing, of a change in address, and to the Parks and Recreation Department, Brevard County, 2725 Judge Fran Jamieson Way, Building B, Second Floor, Viera, Florida 32940.

WHEREAS, it is the intent of the Owner to obtain the services of the Contractor in connection with the construction of Rotary Park at Suntree Dock Replacement, hereinafter referred to as the "Project" or the "Work" and has issued a solicitation for bids to perform the work; and

WHEREAS, the Contractor has been selected as the lowest responsible and responsive bidder;

WHEREAS, the Contractor desires to perform such construction on the project in accordance with the terms and conditions of this Agreement.

WITNESSETH:

NOW, THEREFORE, in consideration of the promises made herein and other good and valuable consideration, the following terms and conditions are hereby mutually agreed to, by and between the Owner and the Contractor:

Article 1
DEFINITIONS

1.1 All terms in this Agreement which are defined in the Advertisement for Bids, Information to Bidders and the General Conditions shall have the meanings designated herein.

1.2 The Contract Documents are as defined in the General Conditions and set forth herein. Such documents form the Contract, and all are as fully a part hereof as if attached to this Agreement or repeated therein. The General Conditions are those General Conditions attached hereto as Attachment 1 and incorporated by reference.

Article 2
STATEMENT OF THE WORK

2.1 The Contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the Work, as required by the Contract Documents, and in Attachment 2, Scope of Work, attached hereto and incorporated by reference.

2.2 The Contractor shall further provide and pay for all related facilities described in any of the Contract Documents, including all work expressly specified therein and such additional work as may be reasonably inferred therefrom, saving and excepting only such items of work as are specifically stated in the Contract Documents not to be the obligation of the Contractor. The totality of the obligations imposed upon the Contractor by this Article and by all other provisions of the Contract Documents, as well as the structures to be built and the labor to be performed, is herein referred to as the "Work".

Article 3
DESIGN CONSULTANT

3.1 The Design Consultant (as defined in the General Conditions) shall be **Morgan and Associates Consulting Engineers, Inc.** whose mailing address is 504 North Harbor City Blvd, Melbourne, FL 32935 provided, however, that the Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its Design Consultant and so advising the Contractor in writing, at which time the person or organization so designated shall be the Design Consultant for purposes of this Contract.

The awarded contractor shall be responsible for all aspects of the project including professional engineer and engineered drawings.

Article 4
TIME OF COMMENCEMENT AND COMPLETION

4.1 The Contractor shall commence the Work promptly upon the date established in the Notice to Proceed. If there is no Notice to Proceed, the date of commencement of the Work shall be the date of this Agreement or such other date as may be established herein.

4.2 Time is of the essence. The Contractor shall achieve Completion, as defined in the General Conditions, within **120 calendar days** from the date of Notice to Proceed or the date otherwise established for the commencement of Work. This time period shall be designated the Contract Time.

4.2.1 The Contractor shall notify the Owner immediately of the absence of workers onsite due to exceptionally adverse weather conditions, specifically wind over 10 mph, that would create an unsafe marine work environment.

4.3 The Contractor shall also complete the following activities of Work within the interim Milestone dates indicated, as applicable:

Activity	
A. Substantial Completion	**90 calendar days** from Notice to Proceed. ***(includes two (2) weeks for Permitting).***

B. Final Completion (All required closeout documents)
30 calendar days from contracted Substantial Completion

4.4 Should the Contractor fail to substantially complete the Work on or before the date stipulated as a Milestone date in Article 4.3 above, or for Substantial Completion (or such later date as may result from an extension of time granted by the Owner), the Contractor shall (upon staff's recommendation to and approval by the Board of County Commissioners) pay the Owner as liquidated damages the sum of $500 for each consecutive calendar day that terms of the contract remain unfulfilled beyond the date allowed by the Contract, which sum is agreed upon as a reasonable and proper measure of damages which the owner will sustain per day by failure of the Contractor to complete within time as stipulated; it being recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall cost for liquidated damages be construed as a penalty on the Contractor. The Owner may deduct any Liquidated Damages incurred under this paragraph from pending Payment Applications.

4.5 For each consecutive calendar day that the Work remains incomplete after the date established for Final Completion, the Owner shall (upon staff's recommendation to and approval by the Board of County Commissioners) retain from the compensation otherwise to be paid to the Contractor the sum of $500. This amount is the minimum measure of damages the Owner will sustain as a failure of the Contractor to complete all remedial work, correct deficient work, clean up the project and other miscellaneous tasks as required to complete all work specified. This amount is in addition to the liquidated damages prescribed above and represents compensation for additional costs the Owner could incur or suffer caused by on-going construction while occupying the Project. Such costs could include, but are not limited to, additional inspections, additional security and safety measures, temporary facilities or structures, reduced employee efficiency, additional operating costs, employee overtime, split shift, insurance, etc.

4.6 The amount of liquidated damages set forth in Articles 4.4 and 4.5 hereinabove shall be assessed cumulatively. The items of cost included in the assessment of liquidated damages are as defined in the General Conditions.

Article 5
CONTRACT SUM

5.1 Provided that the Contractor shall strictly and completely perform all of its obligations under the Contract Documents, and subject only to additions and deductions by Modification or as otherwise provided in the Contract Documents, the Owner shall pay to the Contractor, in current funds and at the time and in the installments hereinafter specified, the sum One Hundred Two, Nine Hundred Eighty-Three Thousand Dollars ($102,983.00) herein referred to as the "Contract Sum".

Article 6
PROGRESS PAYMENTS

6.1 The Contractor hereby agrees that on or about the last day of every month during the performance of the Work the Contractor will deliver to the DESIGN CONSULTANT an Application for Payment of the work for the preceding thirty (30) days in accordance with the provisions of Article 9 of the General Conditions. This date may be changed upon mutual agreement, stated in writing, between the Owner and Contractor. Payment under this Contract shall be made as provided in the General Conditions and in accordance with Florida Statutes.

Article 7
OTHER REQUIREMENTS

7.1 The Contractor shall submit certified copies of the recorded Performance Bond and Payment Bond, as well as Certifications of Insurance as required by the Contract Documents *prior to commencing work on the jobsite*.

7.2 The Owner shall furnish to the Contractor, at the Contractor's request, any leftover/returned set(s) of drawings and specifications, at no extra cost, for use in the Construction of the Work. Additional sets of drawings or specifications shall be obtained by the Contractor at the Contractor's own expense.

7.3 The Contractor shall perform at least ten percent (10%) of the total Work with forces that are in the direct employment of the Contractor's organization.

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

ATTEST:

Scott Ellis, Clerk

Reviewed for legal form and content:

(Assistant) County Attorney

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

By: _____
Kristine Isnardi, Chair

As approved by the Board on: April 24, 2018

WITNESS:

Signature Date

Jamisyn Unrue
Print Name

Loyd Custom Marine, Inc.
(Corporate Seal)

Micah Loyd, Director **Date** 12/4/18

State of Florida
County of Brevard

The foregoing instrument was acknowledged this 4 day of December 2018 by Micah Loyd who personally appeared before me or provided _____ as form of identification and who affirms that he/she signed the instrument voluntarily for the purpose expressed in it.

Signature of Notary of Public

Irene Henderson
Name of Notary of Public
(print, type or stamp)
My Commission Expires: 8-6-2022

IRENE HENDERSON
MY COMMISSION # GG 218068
EXPIRES: August 6, 2022
Bonded Thru Notary Public Underwriters

WITNESS:

Jamisyn Unrue 12/5/18
Signature Date

Jamisyn Unrue
Print Name

LOYD CUSTOM MARINE, INC.
(Corporate Seal)

12-5-18
Jody John Horton, Jr., Director **Date**

State of Florida
County of Brevard

The foregoing instrument was acknowledged this 5 day of December 2018 by Jody John Horton, Jr. who personally appeared before me or provided _____ as form of identification and who affirms that he/she signed the instrument voluntarily for the purpose expressed in it.

Irene Henderson
Signature of Notary of Public

Irene Henderson
Name of Notary of Public
(print, type or stamp)
My Commission Expires: 8-6-2022

IRENE HENDERSON
MY COMMISSION # GG 218068
EXPIRES: August 6, 2022
Bonded Thru Notary Public Underwriters

ATTACHMENT 1

GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

ARTICLE 1
CONTRACT DOCUMENTS

1.1 DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Owner-Contractor Agreement, the Conditions of the Contract (General, Supplementary and other Conditions), the Performance and Labor and Material Payment Bonds, Bid Bond, the Drawings, sample forms, the Contractor's Bid, the Specifications, and all Addenda issued prior to and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order issued pursuant to the provisions of Article 12, (3) a written order for a minor change in the Work issued by the Design Consultant pursuant to Article 12.

The Contract Documents do not include any other documents, including but not limited to soils, geotechnical or other reports, boundary or other surveys and analyses, hereinafter "technical data"; which may be printed, bound or assembled with the contract documents, or otherwise made available to the Contractor for review or information under this Contract, unless specifically enumerated and expressly incorporated by reference in the Owner-Contractor Agreement.

The Contractor may rely upon the general accuracy of the technical data contained in such reports and drawings, but such reports and drawings are not contract documents. Such technical data is identified in the Supplementary Conditions. Except for such reliance on such technical data, the Contractor may not rely upon or make any claim against Owner with respect to:

A. The completeness of such reports and drawings for Contractor's purposes, including but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by the Contractor and safety precautions and programs incident thereto, or;

B. Other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings, or;

C. Any Contractor interpretation of or conclusion drawn from any technical data or any such data, interpretations, opinions or information.

1.1.2 THE CONTRACT

The Contract is the sum of all the Contract Documents. This Contract represents the entire and integrated Agreement between the Owner and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as

defined in Subparagraph 1.1.1 and notwithstanding anything contained in the Contract Documents to the contrary, there can be no increase in the Contract Sum or Time without an executed change order approved by the Board of County Commissioners.

1.1.3 **THE WORK**

The Work comprises the completed construction required by the Contract Documents and includes all labor, supplies and other facilities or things necessary to produce such construction, and all materials, equipment, and supplies incorporated or to be incorporated in such construction.

1.1.4 **FURNISH, INSTALL, PROVIDE**

The terms "Furnish" or "Install" or "Provide", unless specifically limited in context, mean: Furnishing and incorporating a specified item, product or material in the work, including all necessary labor, materials, equipment to perform the work required, ready for use.

1.1.5 **NOTICE**

The term "Notice" as used herein shall mean written notice. Written notice shall be deemed to have been duly served when delivered to or at the last known business address of the person, firm or corporation for whom intended, or to their or its duly authorized agent, representative or officer; or when enclosed in a postage prepaid wrapper or envelope addressed to such person, firm or corporation at their or its last known business address and deposited in a United States mailbox.

1.1.6 **MISCELLANEOUS WORDS OR TERMS**

Whenever they refer to the work or its performance, "Directed", "Required", "Permitted", "Ordered", "Designated", "Prescribed", and words of like import shall imply the direction, requirements, permission, order, designation or prescription of the Owner or Design Consultant, and "Approved", "Acceptable", "Satisfactory", "in the judgment of" and words of like import shall mean approved by or acceptable to or satisfactory to, in the judgment of the Owner.

1.1.7 BIDDER: Any individual, company, corporation, partnership, or joint venture who submits a bid for work required as distinct from a sub-bidder who submits a bid to a prime bidder.

1.1.8 BIDDING DOCUMENTS: The Invitation or Advertisement for Bid, Contractor's Qualification Statement, Information to Bidders, Sample Forms, Proposal, Specifications, Drawings and Addenda issued prior to receipt of bids.

1.1.9 DIRECTED, REQUIRED, ACCEPTABLE: When these words refer to work or its performance, "directed," "required," "permitted," "ordered," "designated," "prescribed," and words of like implication, mean "by direction of," "requirements of," "permission of," "order of," "designation of," or "prescription of" the Design Consultant. Likewise, "acceptable," "satisfactory," "in the

judgement of," and words of like import, mean "recommended by," "acceptable to," "satisfactory to," or "in the judgement of" the Design Consultant.

1.1.10 AS SHOWN, AS INDICATED, AS DETAILED: These words, and words of like implication, refer to information contained by drawings describing the work, unless explicitly stated otherwise in other Contract Documents.

1.1.11 MANUFACTURER: An individual, company, or corporation who manufactures, fabricates, or assembles a standard product. A standard product is one that is not made to special design, and is furnished by either direct sale or by contract to the Contractor, Subcontractor or Vendor.

1.1.12 MATERIAL SUPPLIER OR VENDOR: A person or organization who supplies, but who is not responsible for the installation of, materials, products and equipment of a standard nature that are not specifically fabricated for this particular Contract.

1.1.13 PLANS OR DRAWINGS: All drawings or reproduction of drawings pertaining to required work.

1.1.14 PRODUCT: The term "product" includes materials, systems and equipment.

1.1.15 PROPOSAL: A complete and properly signed document whereby a bidder proposes to do the work or designated portion thereof for the sums stipulated therein, supported by data called for by the bidding requirements.

1.1.16 SPECIFICATIONS: Descriptions, provisions and requirements, pertaining to method and manner of performing work, or to quantities and qualities of materials to be furnished under terms of the Contract.

1.1.17 DAY: Calendar day unless otherwise specifically designated. All dates shall mean midnight of the indicated day unless otherwise stipulated.

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 The Contract Documents shall be signed by the Owner and Contractor and shall be deemed an original, but all of which shall constitute one and the same instrument. If either the Owner or the Contractor or both do not sign the Contract Documents, then they shall be as described in Paragraph 1.1.1.

1.2.2 By executing the Contract, the Contractor represents that the Contractor has visited the site, and become familiar with the local conditions under which the Work is to be performed, and correlated observations with the requirements of the Contract Documents. Contractor further represents that the Design Drawings and Specifications contain some minor errors and discrepancies, however, if such errors or discrepancies would affect contract time or price, the Contractor addressed them during the bidding phase. Such errors and discrepancies shall not form the basis of any claim by Contractor for defective design or breach of any implied warranties as to fitness of plans or specifications against Owner.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings unless otherwise specifically defined herein. The table of contents, index, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light upon the interpretation of the provisions to which they refer.

1.2.4 The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings is for clarity only, and shall not control the Contractor in dividing the work among Subcontractors or in establishing the extent of Work to be performed by any trade. The Contractor may subcontract the Work in such divisions as the Contractor sees fit and the Contractor is ultimately responsible for furnishing all work shown on the drawings and/or in the Specifications.

1.2.5 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and not shown on the drawings shall have the same effect as if shown or mentioned respectively in both. Technical specifications take priority over general specifications and detail drawings take precedence over general drawings. Any work shown on one drawing shall be construed to be shown in all drawings and the contractor will coordinate the work and the drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: The Owner- Contractor Agreement; Modifications; Addenda; any Supplementary Conditions; the General Conditions; the Specifications; the Drawings; as between schedules and information given on Drawings, the schedules shall govern; as between figures given on Drawings and the scaled measurements, the figures shall govern; as between large-scale Drawings and small scale Drawings, the larger scale shall govern. Any such conflict or inconsistency between or in the drawings shall be submitted to the Design Consultant whose decision thereon shall be final and conclusive.

1.2.6 The Contractor agrees that nothing contained in the Contract Documents or any contract between the Owner and the Design Consultant shall create any contractual relationship between the Design Consultant and the Contractor and any Subcontractor or Sub-subcontractors. The Contractor acknowledges and agrees that this Contract is not intended to create, nor shall any provision be interpreted as creating, any contractual relationship between the Owner or Contractor and any third parties.

1.2.7 The provisions of this Contract cannot be amended, modified, varied or waived by the Owner or its agents or representatives in any respect except by a modification approved and executed by the Brevard County Board of County Commissioners. The Contractor is hereby given notice that no person has authority to orally waive, or to release the Contractor from any of the Contractor's duties or to alter

obligations under or arising out of this Contract. Any waiver, approval or consent granted by Modification to the Contractor shall be limited to those matters specifically and expressly stated thereby to be waived, approved or consented to and shall not relieve the Contractor of the obligation to obtain any future waiver, approval or consent.

1.2.8 Any material or operation specified by reference to published specifications of a manufacturer, a society, an association, a code, or other published standard, shall comply with requirements of the listed document which is current on date of receipt of bids. In case of a conflict between referenced document and project specifications, project specifications shall govern. In case of a conflict between referenced documents, the one having more stringent requirements shall govern.

1.2.9 The Contractor, if requested, shall furnish an affidavit from manufacturer certifying that materials or product delivered to job meets requirements specified.

1.3 **OWNERSHIP AND USE OF DOCUMENTS**

1.3.1 All Drawings, Specifications and copies thereof furnished to the Contractor are and shall remain the property of the Design Consultant and/or Owner. They are to be used only with respect to this Project and are not to be used on any other project. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Design Consultant on request at the completion of the Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Design Consultant's common law copyright or other reserved rights.

ARTICLE 2
THE DESIGN CONSULTANT

2.1 **DEFINITIONS**

2.1.1 The terms "Design Consultant" or "A/E" or "Architect" or "Engineer" as used or set forth in the Contract Documents, shall mean the entity and its consulting firm or agencies, or their duly authorized representatives, that is responsible for designing or engineering the work, and performing the activities specified herein, as identified in the Owner-Contractor Agreement, including any consulting-engineers or subcontractors to said entity or firm. Such firm or agency and its representatives shall act severally within the scope of particular duties entrusted to them, unless otherwise provided for in the Contract.

2.1.2 The Design Consultant is identified in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number. The Design Consultant is further described as and, throughout this document, shall mean one or both of the following:

2.1.2.1 ARCHITECT, a person or other legal entity lawfully licensed to practice architecture in the state wherein the Project is located; or

2.1.2.2 ENGINEER, a person or other legal entity lawfully licensed to practice engineering in the state wherein the Project is located.

2.1.3 DESIGN CONSULTANT:

2.2 **SERVICES OF THE DESIGN CONSULTANT**

2.2.1 The Design Consultant will provide certain services as hereinafter described.

2.2.2 Should errors, omissions, or conflicts in the Drawings, Specifications, or other Contract Documents prepared by the Design Consultant be discovered, the Design Consultant will prepare such amendments or supplementary documents and provide consultation as may be required.

2.2.3 The Design Consultant will visit the site at intervals appropriate to the stage of construction to familiarize itself generally with the progress and quality of the Work. The Design Consultant will not be required to make exhaustive or continuous on-site inspections to check the quality and quantity of the Work, but shall make as many inspections as may reasonably be required to fulfill its obligations to the Owner. On the basis of such on-site observations and his powers under the Contract, the Design Consultant shall endeavor to secure the faithful performance of the Contract by Owner and Contractor. The Design Consultant shall:

- determine the progress and quality of the Work, subject to the right of the Owner to make an overriding decision to the contrary;
- interpret the requirements of the drawings and specifications and issue supplemental instructions to the Contractor as may be required;
- recommend to the Owner suspension of the Work (in whole or in part) whenever such suspension may be necessary to ensure the proper execution of the Contract;
- have authority to reject, in writing, Work which does not conform to the requirements of the drawings and specifications.

The Design Consultant shall have no authority to approve or order changes in the Work which alter the design concept or which call for an extension of time or a change in the contract price. Upon request, the Design Consultant shall confirm, in writing, within ten (10) days, any oral order or determination made by the Design Consultant.

2.2.4 The Design Consultant will render written field reports to the Owner in the form required by the Owner relating to the periodic visits and inspections of the Project required by Subparagraph 2.2.3.

2.2.5 The Design Consultant and Owner shall at all times have access to the Work wherever it is in preparation or progress. The Contractor shall provide safe facilities for such access so the Design Consultant may perform the Design Consultant's functions under the Contract Documents.

2.2.6 As required, the Design Consultant will render to the Owner, within a reasonable time, interpretations concerning the design and other technical aspects of the Work and the Contract Documents.

2.2.7 All communications, correspondence, submittals, and documents exchanged between the Design Consultant and the Contractor in connection with the Project shall be copied to the Owner and/or in a manner prescribed by the Owner.

2.2.8 Although the Owner is bound by the terms of the Contract with the Contractor, including the drawings and specifications, the Owner shall have the right, but not the duty, to countermand any decision of the Design Consultant and to follow or reject the advice of the Design Consultant, including but not limited to acceptance of the Work, as the Owner deems best. In those instances where the Design Consultant has been given authority to inspect, recommend, make a decision, etc., the Design Consultant shall promptly do so, but in the case of disagreement between them, the decision of the Owner shall be final. The party taking issue with the determination, interpretation or decision of the Design Consultant shall give the other party written notice of such fact within seven (7) calendar days after the determination, interpretation or decision is communicated by the Design Consultant. In the actual performance of the Work, however, the Contractor shall, in the first instance, proceed in accordance with the instructions given by the Design Consultant unless the Owner and the Contractor mutually agree that the Contractor shall proceed otherwise.

2.2.9 The Design Consultant's decisions in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.

2.2.10 All orders from the Owner to the Contractor shall either be transmitted through the Design Consultant or the Design Consultant shall be informed of the order by the Owner.

2.2.11 The Design Consultant shall provide to the Owner and the Contractor after each visit to the site, a written report indicating the date, time of day, weather conditions and the names of the persons representing the Design Consultant who participated in the visit. The report shall advise the Owner of any problems that were noted and shall compare the Design Consultant's observations of the actual progress of the Work with that reported by the Contractor. On the basis of the Design Consultant's on-site observations, the Design Consultant shall make every reasonable effort to guard the Owner against defects and deficiencies in the Work of the Contractor. If the Design Consultant observes any Work that does not conform to the Contract Documents, the Design Consultant shall report this observation to the Contractor and Owner. The Design Consultant will prepare and submit to the Contractor and Owner a field report which will identify the Contractor's Work which is not in conformance with the Contract Documents. The Design Consultant shall have reasonable time to complete the field report. The Contractor shall, upon receipt of the field report, cause the defective, omitted or non-conforming work listed in the field report to be corrected and/or completed, and its acceptance acknowledged before.

2.2.12 The Design Consultant shall not be responsible for construction means, methods, techniques, sequences or procedures (other than those expressly specified in the Contract Documents), or for safety precautions and programs in connection with the Work, and the Design Consultant shall not be responsible for the Contractor's failure to carry out the Contractor's own responsibilities.

2.2.13 The Design Consultant shall have the authority and responsibility to inspect the Work, to note and report defective Work and deviations from the Contract Documents to the Owner, to reject same, and to recommend to the Owner the suspension of the Work when necessary to prevent defective Work from proceeding or being covered.

2.2.14 All material and workmanship shall be subject to inspection, examination and test by the Owner and/or its Design Consultant at any and all times during manufacture and/or construction. The Design Consultant shall have authority to reject defective materials and workmanship and require its correction. Rejected workmanship shall be satisfactorily corrected and rejected materials shall be satisfactorily replaced with proper material without charge therefore and the Contractor shall promptly segregate and remove the rejected material from the premises. If the Contractor fails to proceed at once with replacement of rejected material and/or the correction of defective workmanship, the Owner may, by contract or otherwise, replace such material and/or correct such workmanship and charge the cost to the Contractor, or may terminate the right of the Contractor to proceed as provided in the General Conditions, the Contractor and surety being liable for any damages.

2.2.15 Jobsite inspections, tests conducted on site or tests of materials gathered on site, which the Contract requires to be performed by independent entities, shall be contracted and paid for by the Owner, unless specified otherwise. Examples of such tests are the testing of cast in-place concrete, foundation materials, soil compaction, pile installations, caisson bearings and steel framing connections. Although conducted by independent testing entities, the Owner will not contract and pay for test or certifications of materials, manufactured products or assemblies which the Contact, codes, standards, etc., require to be tested and/or certified for compliance with industry standards such as Underwriters Laboratories, Factory Mutual or ASTM. If there are any fees to be paid for such tests and certifications, they will be paid by the Contractor. The Contractor shall also pay for inspections, tests and certifications which the Contract specifically requires the Contractor to perform or pay, together with any inspections and tests which the Contractor chooses to perform for the Contractor's own quality control purposes. The Contractor shall promptly furnish, without additional charge, all reasonable facilities, labor and materials necessary and convenient for making such tests. Except as provided below, whenever such examination and testing finds defective materials, equipment or workmanship, the Contractor shall reimburse the Owner for all costs of re-examination and re-testing.

2.2.16 Should it be considered necessary or advisable by the Owner or the Design Consultant at any time before final acceptance of the entire Work to make an examination of any part of the Work already completed, by removing or tearing out portions of the Work, the Contractor shall, on request, promptly furnish all necessary facilities, labor and materials to expose the Work to be tested to the

extent required. If such Work is found to be defective in any respect, due to the fault of the Contractor or his subcontractors, the Contractor shall pay all expenses of uncovering and identifying the Work, of examination and testing, and of satisfactory reconstruction. If, however, such Work is found to meet the requirements of the Contract, the actual cost of the Contractor's labor and material necessary involved in uncovering the Work, the cost of examination and testing and Contractor's cost of material and labor necessary for replacement shall be paid to the Contractor and the Contractor shall, in addition, if completion of the Work has been delayed thereby, be granted a suitable extension of time.

2.2.17 The Design Consultant will recommend to the Owner that the Work be suspended when in the Design Consultant's judgment the drawings and specifications are not being followed. Any such suspension shall be continued only until the matter in question is resolved to the satisfaction of the Owner. The cost of any such Work stoppage shall be borne by the Contractor unless it is later determined that no fault existed in the Contractor's Work.

2.2.18 The Design Consultant will review Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work and for general compliance with the Contract Documents. Such action shall be taken within **ten (10) days** of receipt unless specified otherwise.

2.2.19 The Owner will establish with the Design Consultant procedures to be followed for review and processing of all Shop Drawings, catalog submittals, project reports, test reports, maintenance manuals, and other necessary documentation, as well as requests for changes and applications for extensions of time.

2.2.20 The Design Consultant will review Change Orders as required under the Contract Documents.

2.2.21 The Design Consultant and the Owner will conduct inspections to determine the dates of Substantial Completion and Final Completion, and will jointly issue a final Certificate for Payment. The Design Consultant and Owner shall be responsible for issuance of Certificates of Substantial and Final Completion.

2.2.22 The Design Consultant will prepare a set of reproducible record prints of Drawings showing significant changes in the Work made during the construction process, based on neatly and clearly marked-up prints, Drawings, and other data furnished by the Contractor. The Design Consultant will also provide the Owner assistance in the original operation of any equipment or system such as initial start-up, testing, adjusting, and balancing.

2.2.23 In case of the termination of the employment of the Design Consultant, the Owner may appoint a new Design Consultant whose status under the Contract Documents shall be that of the former Design Consultant, or the Owner may assume all of the services of the Design Consultant thereafter.

ARTICLE 3
OWNER

3.1 **DEFINITION**

3.1.1 The Owner is the person or entity identified as such in the Owner-Contractor Agreement and is represented by the Facilities Construction Division. The Owner is referred to throughout the Contract Documents as if singular in number.

3.1.2 Owner: **Brevard County Board of County Commissioners**
Parks and Recreation Department
Attn: Mary Ellen Donner, Director
2725 Judge Fran Jamieson Way
Building B, 2nd Floor
Viera, Florida 32940
(321) 633-2046; fax (321) 633-2198

3.2 **CONSTRUCTION PROGRAM MANAGER (IF APPLICABLE)**

3.2.1 The Owner may contract with a Construction Program Manager who will assist and advise the Owner during Project construction and until the issuance of the final Certificate for Payment. If a Construction Program Manager is utilized, the Owner's communications with the Contractor and the Design Consultant shall generally be through the Construction Program Manager, who will assist the Owner with regard to the Project. The Owner must approve all payments to the Contractor and, notwithstanding anything in the Contract Documents to the contrary, only the Brevard County Board of County Commissioners has the authority to authorize or issue Change Orders. Neither the Design Consultant nor Construction Program Manager shall have any authority to authorize or issue change orders. If applicable, all of the Contractor's communications to the Owner or to the Design Consultant shall be exclusively through the Construction Program Manager.

3.2.2 The Construction Program Manager, if applicable, will represent the Owner, but the Owner has the right but not the duty to countermand any decision or action of the Construction Program Manager, and to follow or reject the advice of the Construction Program Manager. The Construction Program Manager is not authorized to revoke, alter, change, relax, or release any requirements of the Contract, nor to approve or accept any portion of the Work not performed in accordance with, nor to issue instructions contrary to, the Contract Documents.

3.3 **INFORMATION, SERVICES AND RIGHTS OF THE OWNER**

3.3.1 The Owner will provide administration of the Contract as hereinafter described.

3.3.2 The Owner shall at all times have access to the Work whenever it is in preparation or progress. The Contractor shall provide safe facilities for such access.

3.3.3 Owner shall not be responsible for or have control or charge of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with Work, and will not be responsible for Contractor's failure to carry out the Work in accordance with the Contract

Documents.

3.3.4 The Owner or Design Consultant will have authority to require special inspection or testing of the work in accordance with Subparagraph 2.2.14, whether or not such Work has been fabricated, installed, or completed. However, neither the Owner's or Design Consultant's authority to act under this Subparagraph, nor any decision made by the Owner or Design Consultant in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Owner or Design Consultant to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.

3.3.5 The Owner shall have the authority and discretion to call, schedule, and conduct job meetings to be attended by the Contractor, representatives of his Subcontractors, and the Design Consultant, to discuss such matters as procedures, progress, problems, and scheduling.

3.3.5.1 The Contractor is required to attend scheduled job site progress conferences as called by the Design Consultant. Contractor shall be represented at these job progress conferences by an authorized representative of the home office of the Contractor as well as by project personnel representatives. These meetings shall be open to subcontractors and material suppliers, and any others who can contribute shall be encouraged by Contractor to attend. It shall be the principal purpose of these meetings, or conferences, to affect coordination, cooperation and assistance in every practical way toward the end of maintaining progress of the project on schedule and to complete the project within the specified Contract Time. The Contractor and subcontractors shall be prepared to assist progress of the work and to recommend remedial measures for the correction of progress as may be appropriate. The Owner shall be the coordinator of the conferences and shall preside as chairman or assign the responsibility to the Design Consultant.

3.3.6 The Owner, with the Design Consultant's assistance, will establish procedures to be followed for processing all Shop Drawings, catalogs, pay requests, change orders, test reports, maintenance manuals, and any other project reports and/or documentation.

3.3.7 The Design Consultant will review and make recommendations regarding all requests for changes and the Design Consultant shall implement the processing of Change Orders, including applications for extension of the Contract Time.

3.3.8 The Owner, however, will not be responsible for the failure of Contractor to plan, schedule, and execute the Work in accordance with the approved schedule or the failure of the Contractor to meet scheduled completion dates or the failure of the Contractor to schedule and coordinate the Work of the Contractor's own trades and Subcontractors or to coordinate and cooperate with other separate contractors.

3.3.9 The Owner, in consultation with the Design Consultant, will each review and process all Applications for Payment by the Contractor, including the final Application for Payment **within seven (7) calendar days**.

3.3.10 The Owner and Design Consultant shall not be responsible or liable to Contractor for the acts, errors or omissions of the Contractor, any separate Subcontractor, any separate contractor or any contractor's or subcontractor's agents or employees, or any other persons performing any of the Work.

3.3.11 The Owner shall furnish all surveys describing the physical characteristics, legal limitations and utility locations for the site of the Project. Such documents are not part of the Contract Documents and are provided for Contractor's information only.

3.3.12 The Owner shall secure and pay for necessary easements required for permanent structures or for permanent changes in existing facilities. The Contractor shall provide all necessary as-built legal descriptions and documentation required for applicable easements, on a timely basis in order to avoid any adverse impact on project schedule.

3.3.13 The Owner will make available for the Contractor's reasonable review, at the Owner's offices or together with the Contract Documents, certain boring logs, geotechnical, soils and other reports, surveys and analyses pertaining to the Contract site of which the Owner is aware and has in its possession. Any boring logs that are provided to the Contractor are only intended to reflect conditions at the locations of the borings and do not necessarily reflect site conditions at other locations. Any reports, surveys, boring logs and analyses provided by Owner are for the Contractor's information only, and their accuracy and completeness are not guaranteed or warranted by the Owner or the Design Consultant, and such reports are not adopted by reference into, nor are they part of the Contract Documents. Notwithstanding any factual statement, conclusion, or any language or recommendations contained in such reports, the Contractor assumes full responsibility for inspection of the site and determination of the character, legal limits, quality and quantity of any soil, surface or subsurface conditions that may be encountered or which may affect the Work, and for the means and methods of construction that the Contractor employs when performing the Work.

3.3.14 The foregoing rights are in addition to other rights of the Owner enumerated herein and those provided by law.

3.4 OWNER'S RIGHT TO STOP OR TO SUSPEND THE WORK

3.4.1 If Contractor fails to correct defective Work as required by Paragraph 13.2 or fails to carry out the Work or supply labor and materials in accordance with the Contract Documents, the Owner by a written order may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

3.4.2 The Owner may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as the Owner may determine to be appropriate for the convenience of the Owner.

3.4.3 If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Owner or the Design Consultant in the administration of this Contract, or by failure of any one of them

to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for an increase in the actual time required for performance of the Work by the Contractor, due solely to such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly. However, no claim for an extension of time shall be made under this Subparagraph 3.4.3 for any suspension, delay, or interruption pursuant to Subparagraph 3.4.1, or for which claim is provided or excluded under any other provision of this Contract. No claim under this Subparagraph shall be allowed for an extension of time required for performance, unless the claim for an extension of time is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, or no later than 20 days after the act or failure to act involved. The Contractor must submit to the Owner a written statement setting forth, as then practicable, the extent of such claimed time extension. Any time extension granted shall only be for the unreasonable portion of the delay to critical work activities and in accordance with Article 8 hereof.

3.4.4 In the event of a suspension of work or delay or interruption of work per Article 3.4.3, the Contractor will and will cause the Contractor's subcontractors to protect materials and work against damage or injury from the weather and maintain completed and uncompleted portions of the work as required by the Contract Documents. If, in the opinion of the Owner any work or material shall have been damaged or injured by reason of failure on the part of the Contractor or any of its subcontractors to so protect same, such work and materials shall be removed and replaced at the expense of the Contractor.

3.4.5 No claim by the Contractor for an equitable adjustment under Subparagraph 3.4.3 shall be allowed if asserted after final payment under this Contract.

3.5 OWNER'S RIGHT TO CARRY OUT THE WORK

3.5.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seventy two (72) hours after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, with a copy of such notice sent to the Contractor's surety, and without prejudice to any other remedy, make good such deficiencies and may further elect to complete all Work or any portion thereof, through such means as the Owner may select, including the use of a new contractor pursuant to Article 3.5.2. In such case the Owner shall provide notice to the Contractor's surety and an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Design Consultant's, the Owner's additional services made necessary by such default, neglect or failure. Notwithstanding the Owner's right to carry out a portion of the work, maintenance and protection of the work remains the Contractor's and Surety's responsibility as provided for in the Performance Bond and Guarantee of Contractor.

3.5.2 Whenever the Contractor is declared by the Owner to be in default under the Contract, the Surety shall promptly remedy the default, or shall promptly:

1) Complete the Contract in accordance with its terms and conditions, or,

2) Obtain a bid or bids for completing Contract in accordance with its terms and conditions upon determination by Owner and Surety jointly of lowest qualified bidder, arrange for a contract between such bidder and Surety to complete Work and provide any required warranty work on service.

ARTICLE 4
CONTRACTOR

4.1 DEFINITION

4.1.1 The Contractor is the person or organization identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number. The term Contractor means the Contractor or its authorized representative, who shall have authority to bind the Contractor in all matters pertinent to this Contract.

4.1.2 This entire Contract is not one of agency by the Contractor for Owner but one in which Contractor is engaged independently in the business of providing the services and performing the Work herein described as an independent contractor.

4.2 REVIEW OF CONTRACT DOCUMENTS

4.2.1 Before placing a proposal to the Owner, and continuously after execution of the Contract, the Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner through the Design Consultant any error, inconsistency or omission the Contractor may discover, including any requirement which may be contrary to any law, ordinance, rule, regulation or order of any public authority bearing on the performance of the Work. If the Contractor has reported in writing an error, inconsistency or omission, has promptly stopped the affected work until otherwise instructed, and has otherwise followed the instructions of the Owner, the Contractor shall not be liable to the Owner or the Design Consultant for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the Work at any time without being awarded the Contract and receiving a Notice to Proceed under these Contract Documents, and, where required, possessing approved Shop Drawings, Product Data or Samples for such portion of the Work.

4.2.2 The Contractor and all Subcontractors shall keep at the site of the Work at least one copy of an approved set of drawings and specifications, including all modifications and clarifications, and approved submittals and shall at all times give the Owner and the Design Consultant, inspectors, as well as other representatives of the Owner access thereto.

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

4.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures of construction and for coordinating all portions of the Work under the Contract.

4.3.1.1 It shall be the responsibility of the Contractor to coordinate the work with other Prime Contractors; to maintain a progress schedule for all Prime Contractors for this project; and to notify the Owner and the Design Consultant of any changes in the progress schedule. The Contractor shall be responsible for providing adequate notice to all Prime Contractors to insure efficient continuity of all phases of the project work. Each other Prime Contractor is held responsible for keeping the Contractor fully informed as to its work progress, including immediate notification of any work progress changes.

4.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors and Sub- subcontractors, suppliers, their agents and employees, and other persons performing any of the Work and for their compliance with each and every requirement of the Contract Documents, in the same manner as if they were directly employed by the Contractor.

4.3.3 The Contractor shall not be relieved from any obligations to perform the Work in accordance with the Contract Documents either by the acts, failures to act or duties of the Owner or the Design Consultant in their administration of the Contract, or by inspections (or lack thereof), tests or approvals (or lack thereof) required or performed under Paragraph 7.6 by persons other than the Contractor.

4.3.4 Before starting any section of work, the Contractor shall carefully examine all preparatory work that has been executed to receive the Contractor's work to see that it has been completed in accordance with the Contract Documents. The Contractor shall check carefully, by whatever means are required, to ensure that all Work and adjacent, related work will finish to proper and required standards for quality, contours, planes, and levels.

4.3.5 The Contractor understands and agrees that the Owner and Design Consultant will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and they will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner and the Design Consultant will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.

4.3.6 The Contractor shall employ no plant, equipment, materials, methods or persons to which the Owner and Design Consultant have a reasonable objection and shall remove no portion of the Work or stored materials from the site of the Work.

4.4 CONTRACTOR'S REPRESENTATIONS

4.4.1 By entering into this Contract with the Owner, the Contractor represents and warrants the following, together with all other representations and warranties in the Contract Documents:

.1 that the Contractor is experienced in and competent to perform the type of work required, has the necessary certifications and/or licenses to perform

the work (and will maintain such certifications/licenses for the duration of the Contract) and is able to furnish the plant, materials, supplies or equipment to perform the work;

.2 that the Contractor is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to initiate and complete the Work required under the Contract;

.3 that the Contractor is familiar with all Federal, State, and County laws, ordinances, permits, regulations and resolutions which may in any way affect the Work or those employed therein, including but not limited to any special laws or regulations relating to the Work or any part thereof;

.4 that such temporary and permanent work required by the Contract Documents which is to be done by the Contractor will be satisfactorily constructed and fit for use for its intended purpose and that such construction will not injure any person, or damage any property;

.5 that the Contractor has carefully examined the Contract Documents and the site of the Work and that from those investigations, the Contractor is satisfied and familiar with: (1) the nature and location of the Work; (2) the character, legal limits, quality and quantity of surface and subsurface materials likely to be encountered, including, but not limited to, all structures and obstructions on or at the project site, both natural and man-made; (3) the character of equipment and other facilities needed for the performance of the Work; (4) the general and local conditions including without limitation its climatic conditions, the availability and cost of labor and the availability and cost of materials, tools and equipment; (5) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the work in the manner required by the Contract Documents; and (6) all other matters or things which could in any manner affect the performance of the Work;

.6 that the Contractor will fully comply with all requirements of the Contract Documents;

.7 that the Contractor will perform the Work consistent with good workmanship, sound business practice, and in the most expeditious and economical manner consistent with the best interests of the Owner:

.8 that the Contractor will furnish efficient business administration and experienced superintendence and an adequate supply of workers, equipment, tools and materials at all times;

Per Board of County Commissioners October 7, 1997 meeting: "The Contractor will provide all subcontractors and suppliers with a copy of the Payment Bond required for this project, and of notices required to make a claim under such bond;"

.9 that the Contractor has carefully reviewed the Work required and that the

Work can be planned and executed in a normal and orderly sequence of Work and reasonably scheduled so as to ensure completion of the work in accordance with the Contract Documents, allowing for normal and reasonably foreseeable weather, labor and other delays, interruptions and disruptions of the Work;

.10 that the Contractor will complete the Work within the Contract Time and all portions thereof within any required Contract milestones: and

.11 that the Contract price is based upon the labor, materials, systems and equipment required by or reasonably inferable from the Contract Documents, without exception.

4.5 LABOR AND MATERIALS

4.5.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, supplies, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary or proper for or incidental to the execution and completion of the Work required by and in accordance with the Contract Documents and any applicable code or statute, whether specifically required by the Contract Documents or whether their provision may reasonably be inferred as necessary to produce the intended results, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Final payment will not be made until the Work is so completed. The Contractor hereby acknowledges that its bid price is not based upon any claim to the land, timber, soils or other resources at the Construction site, except to the use of soils for necessary site work unless specified otherwise in the drawings and/or specifications.

4.5.2 The Contractor shall, at all times, enforce strict discipline and good order among its employees and shall not employ on the Work any unfit subcontractor or person or anyone not skilled in the task assigned. The Owner may, by notice in writing, require the Contractor to remove from the work any subcontractor or employee the Owner deems incompetent, careless or otherwise objectionable and Contractor shall provide for this contingency in all Subcontracts.

4.5.3 The Contractor shall be responsible for ensuring that the work is completed in a skillful and workmanlike manner.

4.5.4 The Contractor shall perform at least that percentage of the Work, if any, specified in Article 7 of the Owner-Contractor Agreement, with forces that are in the direct employment of the Contractor's organization. The Contractor shall submit to the Owner and/or Construction Program Manager within thirty (30) calendar days after award of the Contract for the Work, and prior to the first Application for Payment, an identification and percentage of the Work to be performed by the Contractor with his own forces. The Contractor shall also identify the Work and percentage of Work to be performed by MBE and WBE subcontractors and vendors. The percentage of the Work to be performed shall be calculated by adding the amount of work performed and dividing this sum by the total amount of the Contract. No portion of the Contract shall be subcontracted or

otherwise performed by a party not the Contractor, except with the written consent of the Owner.

4.5.5 All equipment, apparatus and/or devices of any kind to be incorporated into the work that are shown or indicated on the drawings or called for in the specifications or required for the completion of the work shall be entirely satisfactory to the Owner and the Design Consultant as regards operations, capacity and/or performance. No approval, either written or verbal, of any drawings, descriptive data or samples of such equipment, apparatus and/or device shall relieve the Contractor of the responsibility to turn over the same in good working order for its intended purpose at the completion of the Work in complete accordance with the Contract Documents. Any equipment, apparatus and/or device not fulfilling these requirements shall be removed and replaced by proper and acceptable equipment, etc. or put in good working order satisfactory to the Owner and Design Consultant without additional cost to the Owner.

4.5.6 The Contractor shall take all necessary precautions for the safety of persons in the execution of the Contract. Compliance with rules of the Department of Labor Occupational Safety and Health Administration, hereafter referred to as OSHA, is required as an established minimum.

4.5.7 The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor during the term of the Contract.

4.5.8 The Contractor shall expressly require any contractor and subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

4.5.9 The Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Owner may immediately terminate this Contract at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Contract. The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

4.6 WARRANTY

4.6.1 The Contractor warrants to the Owner and the Design Consultant that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all workmanship will be of first class quality, free from faults and defects and in conformance with the Contract Documents and all other warranties and guaranties specified therein. Where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner or the Design Consultant, the Contractor shall furnish satisfactory

evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Article 13.

4.6.2 The Work included in this Contract is heretofore specified. The Contractor will be required to complete the Work specified and to provide all items needed for construction of the project, complete and in good order.

4.6.3 The warranties set forth in this Paragraph 4.6 and elsewhere in the Contract Documents shall survive Final Completion of the Work under Paragraph 9.9.

4.6.4 The Contractor and Surety guarantee and warrant to the Owner all work as follows:

.1 that all materials and equipment furnished under this Contract will be new and the best of its respective kind unless otherwise specified;

.2 that all Work will be of first-class quality and free of omissions and faulty, poor quality, imperfect and defective material or workmanship:

.3 that the Work shall be entirely watertight and leak proof in accordance with all applicable industry customs and practices, and shall be free of shrinkage and settlement:

.4 that the Work, including but not limited to, mechanical and electrical machines, devices and equipment, shall be complete systems, fit and fully usable for its intended and specified purpose and shall operate satisfactorily with ordinary care;

.5 that consistent with requirements of the Contract Documents the Work shall be installed and oriented in such a manner as to facilitate unrestricted access for the operation and maintenance of fixed equipment; and

.6 that the Work will be free of abnormal or unusual deterioration which occurs because of poor quality materials, workmanship or unsuitable storage.

4.6.5 All Work not conforming to guarantees and warranties specified in the Contract Documents, including substitutions not properly approved and authorized, may be considered defective. If required by the Design Consultant, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

4.6.6 If, within one (1) year after the Date of Final Completion of the Work or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective, not in accordance with the Contract Documents, or not in accordance with the guarantees and warranties specified in the Contract documents, the Contractor shall correct it within five (5) working days or such other period as mutually agreed, after receipt of a written notice from the Owner to do so. The Owner shall give such notice with reasonable promptness after

discovery of the condition.

4.6.7 If at any time patent deficiencies in the Work are discovered, the Contractor will be liable for replacement or correction of such Work and any damages which Owner has incurred related thereto, regardless of the time limit of any guarantee or warranty.

4.6.8 Any materials or other portions of the Work, installed, furnished or stored on site which are not of the character or quality required by the specifications, or are otherwise not acceptable to the Owner or the Design Consultant, shall be immediately removed and replaced by the Contractor to the satisfaction of the Owner and Design Consultant, when notified to do so by the Owner and Design Consultant.

4.6.9 If the Contractor fails to correct defective or nonconforming Work as required by Article 4.6.6 or 4.6.7, or if the Contractor fails to remove defective or nonconforming Work from the site, as required by Article 4.6.8, the Owner may elect to either correct such Work in accordance with Article 3.5 or remove and store materials and equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, the Owner may upon ten (10) additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Owner's and/or the Design Consultant's additional services made necessary thereby. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner

4.6.10 The Contractor shall bear the cost of making good all work of the Owner, separate contractors or others, destroyed or damaged by such correction or removal required under this Article 4, Article 13 or elsewhere in the Contract Documents.

4.7 TAXES

4.7.1 The Contractor shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time bids are received, whether or not yet effective. Owner reserves the right to direct purchase materials to realize a tax savings and adjust the contract amount accordingly. Contractor hereby agrees to permit Owner to direct purchase from the Contractor's suppliers at prices quoted to Contractor and for Owner to retain any tax savings generated thereby.

4.8 PERMITS, FEES AND NOTICES

4.8.1 The Owner shall pay, on behalf of Brevard County, all Brevard County permit, inspection and impact fees required for the Project and/or to obtain a Certificate of Occupancy. Fees for temporary construction trailer permit shall be the responsibility of the Contractor.

All other fees required by agencies/municipalities other than Brevard County to obtain a Certificate of Occupancy shall be the responsibility of the General Contractor. Examples of such fees include, but are not limited to, the following: connection fees, building permit fees, plan review fees, inspection fees, impact fees, etc.

"Public Bid Disclosure Act": Reference is made to Section 218.80, Florida Statutes, known as Public Bid Disclosure Act, and is on file for review by Bidders in the Facilities Construction Division Office.

4.8.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4.9 **CONTRACTOR'S SUPERINTENDENT**

4.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor.

4.9.2 The superintendent shall be in attendance at the Project site not less than eight (8) hours per day, five (5) days per week, and any time work is being performed at the jobsite, unless the job is closed down due to a general strike or conditions beyond the control of the Contractor or until completion or termination of the Contract. It is understood that such Superintendent shall be acceptable to the Owner and the Design Consultant and shall be the one who will be continued in that capacity for the duration of the project, unless the Owner otherwise agrees. The Superintendent shall not be employed on any other project for or by Contractor or any other entity during the course of the Work.

4.9.3 In the event any of the following conditions shall exist, the Contractor, at no additional expense to the Owner, shall require that the Superintendent be at the Project site not less than ten (10) hours per day, six (6) days per week:

.1 should Substantial Completion not be accomplished on schedule.

.2 should Final Completion not be accomplished on schedule.

.3 should the progress schedule indicate in the opinion of the Owner or Design Consultant that the Contractor is fourteen (14) or more days behind schedule at any time during construction up until thirty (30) days prior to scheduled Substantial Completion.

.4 should the progress schedule indicate in the opinion of the Owner or Design Consultant that the Contractor is seven (7) or more days behind schedule at any time during the last thirty (30) days prior to scheduled Substantial Completion.

4.10 PROGRESS SCHEDULE

(a) The Contractor is responsible for the sequencing, scheduling and coordinating of the Work, for monitoring the progress of the Work, and for taking appropriate action to keep the Work on schedule. Within two (2) weeks after signing the Contract, the Contractor shall prepare and submit to the Owner and/or Construction Program Manager and Design Consultant a preliminary Critical Path Method Schedule "CPM" for completing the Work on the completion date stated in the Contract. A fully complete CPM schedule for accomplishing the work must be submitted in like manner no later than sixty (60) days after signing the contract. No progress payments will be payable to the Contractor until the Contractor has submitted a preliminary CPM schedule which is acceptable to the Owner. Neither the second progress payment nor any subsequent payments shall be payable to the Contractor until the Contractor has submitted a final, acceptable CPM schedule.

Failure to provide a satisfactory preliminary or final CPM schedule for accomplishing the Work within the time provided shall be a breach of contract schedule, which the Owner may terminate the Contract in the manner provided in these General Conditions. Both the preliminary CPM Schedule and the final CPM Schedule for accomplishing the Work shall be of the type set forth in subparagraph I or II below, as appropriate:

I. For Contracts with a price $750,000 or less, a bar graph will satisfy the above CPM requirements. The schedule shall indicate the estimated starting and completion dates for each major element of the work. As a minimum the elements of Work shall reflect the Contractor's approved Schedule of Values for payment and shall detail any elements of work requested by the Owner. The actual progress of those elements of the Work will be reported monthly through the Design Consultant at the time of submission of the request for payment. If any elements of the Work are behind schedule, regardless of whether they may prevent the Work from being completed on time, the Contractor must indicate, in writing, what measures the Contractor is taking and plans to take to bring each element back on schedule and to insure that the time of completion is not exceeded.

II. For Contracts with a price over $750,000, a Critical Path Method Schedule "CPM" shall be utilized to control the planning and scheduling of the project. The CPM schedule shall be the responsibility of the Contractor and shall be paid for by the Contractor.

(b) **CPM Schedule**: The working plan and schedule will be developed in the form of a CPM network diagram using the Contractor's logic and time estimates. The network shall be in the time-scaled precedence format. The network diagram shall be drawn or plotted with activities grouped or zoned by work area or subcontract as opposed to a random (or scattered) format.

The network diagram shall be scaled on a weekly basis and shall be drawn at a level of detail and logic which will schedule all salient features of the Work, including the placing of orders for materials, submission of shop drawings and other submittals for approval, approval of shop drawings by the Design Consultant, fabrication and delivery of material, and all work activities to be performed by the Contractor and the Owner's Contractors. The duration of activities to be performed by the Design Consultant shall be in accordance with the relevant provisions, if any, of the specifications or shall be determined by agreement between the Design Consultant and Contractor. If they are unable to agree, the Owner shall determine the appropriate duration of such Design Consultant activities. Each work activity will be assigned a time estimate by the Contractor. If requested by the Owner or Design Consultant the Contractor shall justify the inclusion or exclusion of a work activity and/or justify by quantity of work, productivity and labor the Contractors time estimate for an activity. One day shall be the smallest time unit used.

On completion of the network diagram, the Contractor shall generate a computer plot of the schedule with master early start, float, successor/predecessor reports, and provide the Owner through the Design Consultant with two (2) copies. In the event the completion date indicated by the schedule exceeds the Contract completion date, the logic and time estimates used to develop the Plan will be reviewed, changes made in the logic and time estimates, and another computer run made to generate a new schedule. This procedure shall be repeated, if necessary, to provide a Plan and Schedule meeting the Contract completion date.

When completed, the working plan and schedule will be submitted to the Owner and Design Consultant for review. The working plan will identify and describe each activity, state the duration of each activity, the calendar dates for the early and late start and the early and late finish of each activity, the total float and clearly highlight all activities on the critical path. "Total float" and "free float", as those terms are defined in ANSI standard No. Z94.2, shall be indicated for all activities. On contracts with a price over $10,000,000, the CPM Schedule shall also show the planned workforce (crew size and number of crews) and the major pieces of equipment required for each activity on the schedule. When reviewed and accepted by the Owner and Design Consultant as to compliance with the requirements of this section but not as to logic, this shall become the plan and schedule for the project.

(c) **Project Control**: The Contractor shall review progress not less than each month, but as often as necessary to properly manage the project and stay on schedule. The Contractor shall collect and preserve information on Change Orders, including extensions of time. The Contractor shall evaluate this information and update the CPM schedule as necessary to finish on the completion date. The scheduled completion date shall be the date identified by the Contract for completion of construction, as amended by Change Order.

(d) **Progress Plot and Reports**: A progress plot with reports showing the work completed to date, in comparison with the work scheduled for completion, and the overall project schedule, shall be provided to the Owner and the Design Consultant with each monthly invoice. Any revisions to logic, duration and/or activities shall be specifically identified, and master reports and plots will be submitted to benchmark the revisions at the Owner's or Design Consultant's request. The form of the plot reports shall be approved by the Owner and Design Consultant.

(e) **Progress Delay**: Should any of the following conditions exist, the Owner or Design Consultant may require the Contractor to prepare, at no extra cost to the Owner, a Plan of Action and a CPM Recovery Schedule for completing the Work by the contractual date. The Plan of Action and CPM Recovery Schedule shall explain and indicate how the Contractor intends to regain compliance with the original CPM schedule. The plan of action and CPM recovery schedule, when required, shall be submitted and accepted prior to submission of the next monthly invoice:

(1) Should the Contractor's monthly progress report indicate delays, in the opinion of the Owner or Design Consultant, such that a CPM Recovery Schedule is required;

(2) Should the CPM schedule show the Contractor to be thirty (30) or more days behind schedule at any time during construction up to thirty (30) days prior to schedule completion date;

(3) Should the Contractor request to make changes in the logic of the CPM schedule which, in the opinion of the Owner or Design Consultant, are a major nature.

4.11 RESPONSIBILITY FOR COMPLETION

4.11.1 The Contractor shall furnish such labor, materials, facilities and equipment and shall work such hours, as may be necessary to ensure the performance of the Work in accordance with the Schedule and within the Milestone and Completion dates specified in the Owner-Contractor Agreement. If it becomes apparent to the Owner and/or Design Consultant that the Work will not be completed in accordance with the Schedule and within required Milestone or Completion dates, the Contractor agrees to undertake some or all of the following actions, at no additional cost to the Owner, in order to ensure, in the opinion of the Owner and/or Design Consultant that the Contractor will comply with all Milestone and Completion date requirements:

.1 increase manpower, materials, crafts, equipment and facilities to accelerate performance of the Work;

.2 increase the number of working hours per shift, shifts per working day, working days per week, or any combination of the foregoing; and/or

.3 reschedule activities to achieve maximum practical concurrence of accomplishment of activities.

4.11.2 In undertaking the actions required under paragraph 4.12.1, Contractor shall comply with the requirements for a Recovery Schedule set forth in Article 4.11.

4.11.3 If, in the opinion of the Owner or Design Consultant, the actions taken by the Contractor pursuant to this Article or the progress or sequence of Work are not accurately reflected on the Construction Schedule, the Contractor shall revise such schedule to accurately reflect the actual progress and sequence of Work.

4.11.4 Failure of the Contractor to substantially comply with the requirements of this Article may be considered grounds for a determination by the Owner, pursuant to Article 14, that the Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified.

4.11.5 This paragraph does not eliminate the Contractor's responsibility to comply with the local noise ordinances, all highway permit requirements and all other applicable laws, regulations, rules, ordinances, resolutions, and permit requirements.

4.12 **DOCUMENTS AND SAMPLES AT THE SITE**

4.12.1 The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. The Contractor shall also maintain document control logs to track all drawings, specifications, Architectural Supplemental Instructions, Change Proposals, Request for Information and Submittals. These shall be delivered to the Design Consultant for the Owner upon completion of the Work.

4.13 **SUBMITTALS**

4.13.1 Submittals are shop drawings, diagrams, schedules, product data instructions, brochures, samples, manuals, certifications, warranties or any other information required by the technical specifications to be reviewed by the Design Consultant.

4.13.2 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.13.3 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the Work.

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

4.13.5 Manuals are manufacturer's installation, start-up, operating, maintenance and repair instructions together with parts lists, pictures, sketches and diagrams which set forth the manufacturer's requirements for the benefit of the Contractor and the

Owner.

4.13.6 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the work of the Owner or any separate contractor, all Submittals required by the Contract Documents.

4.13.6.1 Unless otherwise directed in writing, the Contractor shall submit no less than six (6) copies, unless specified otherwise, of each Submittal to the Design Consultant. Routing of said Submittals will be from the Contractor to the Design Consultant to the Owner and/or Construction Program Manager. The Design Consultant will return three (3) copies of each Submittal directly to the Contractor and provide copies to the Owner and/or Construction Program Manager.

4.13.6.2 For standard manufactured items not requiring special shop drawings for manufacture, submit six (6) copies, unless specified otherwise, of manufacturer's catalog sheets showing illustrated cuts of item to be furnished, scale details, sizes, dimensions, performance characteristics, capacities, wiring diagrams and controls, and all other pertinent information. Four (4) copies of reviewed submissions will be returned to the Contractor.

4.13.6.3 For all other shop drawings, submit one (1) legible, unfolded, reproducible (positive side up sepia) transparencies and five (5) opaque prints for each drawing. Each drawing shall have a clear space for stamps. When phrase "by others" appears on shop drawings, the Contractor shall indicate on the drawing who is to furnish material or operations so marked before submittal.

4.13.6.4 The Contractor shall submit samples in triplicate of adequate size showing quality, type, color range, finish and texture, unless otherwise specified.

4.13.6.5 Where the technical specifications call for the submittal of manufacturer's data or any other information to the Design Consultant for information only, such Submittals shall be made before the commencement of any portion of the Work requiring such submission. Four (4) copies shall be submitted and one (1) will be returned to the Contractor.

4.13.6.6 For use of all trades, the Contractor shall provide number of prints which are required for field distribution.

4.13.6.7 All communications and transactions with manufacturers or Subcontractors shall be through the General Contractor.

4.13.6.8 Where specifications require manufacturer's printed installation instructions, the Contractor shall submit copies of such instructions for review.

4.13.6.9 Where several materials are specified by name for one use, select for use any of those so specified.

4.13.6.10 Whenever item or class of material is specified exclusively by trade name, manufacturer's name, or by catalog reference, use only such item, unless written approval for substitution is secured.

4.13.6.11 No portion of the Work requiring submission of Submittals shall be commenced or fabricated by the Contractor except at the Contractor's own risk, until the Submittal has been reviewed by the Design Consultant as provided in Article 2. All such portions of the Work shall be in accordance with reviewed Submittals.

4.13.7 By approving and submitting Shop Drawings, Product Data, Manuals and Samples, etc. the Contractor represents that the Contractor has determined and verified all materials, field measurements, and field construction criteria and that the Contractor has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor shall adhere to any supplementary processing and scheduling instructions pertaining to Shop Drawings which may be issued by the Owner.

4.13.7.1 Parts and details not fully indicated on the contract drawings shall be detailed by the Contractor in accordance with standard engineering practice. Dimensions on the Contract Drawings, as well as detailed drawings themselves are subject in every case to measurements of existing, adjacent, incorporated and completed work, which shall be taken by the Contractor before undertaking any work dependent on such data.

4.13.8 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Design Consultant's review of any Submittal under Subparagraph 2.2.18 and 2.2.19 unless the Contractor has specifically informed the Design Consultant in writing of such deviation at the time of submission and the Design Consultant and Owner have given written approval to the specific deviation by a written order. The Contractor shall not be relieved from responsibility for construction means and methods shown in the submittal or for errors or omissions in the Shop Drawings, Product Data, Samples, or Manuals, etc. by the Design Consultant's review thereof.

4.13.9 The Contractor shall make corrections required by the Design Consultant and shall resubmit the required number of corrected copies of Submittals. The Contractor shall direct specific attention, in writing or on resubmitted Submittals, to revisions other than those requested by the Design Consultant on previous Submittals. Resubmittals necessitated by required corrections due to Contractor's errors or omissions shall not be cause for extension of Contract Time.

4.13.11 Shop Drawings, Product Data and Samples shall be dated and shall bear the name of the Project; a description or the names or equipment, materials and items; reference to the appropriate Specification Section; and complete identification of locations at which materials or equipment are to be installed.

4.13.12 Submittals shall be accompanied by a transmittal letter, in duplicate, containing the name of the Project, the Contractor's name, the number of Shop Drawings, Product Data, Samples, or Manuals and titles and other pertinent data.

4.14 EQUAL PRODUCTS AND SUBSTITUTIONS

4.14.1 All materials, supplies and articles furnished under this Contract shall, whenever specified and otherwise practicable, be the standard products of recognized, reputable manufacturers. Unless otherwise specifically provided in the Contract

Documents, the naming of a certain brand, make, manufacturer or article, device, product, material, fixture or type of construction shall convey the general style, type, character and standard of quality of the article desired and shall not be construed as limiting competition. The Contractor, in such cases, may with Owner approval, use any brand, make, manufacturer, article, device, product, material, fixture, form or type of construction which in the judgment of the Owner is equal to that specified. An item may be considered equal to the item so named or described if, in the opinion of the Owner (1) it is at least equal in quality, durability, appearance, strength, and design; (2) it will perform at least equally the specific function imposed by the general design for the work being contracted for or the material being purchased; and (3) it conforms substantially, even with deviations, to the detailed requirements for the item in the specifications. Approval by the Owner will be granted based upon considerations of quality, workmanship, economy of operation, suitability for the purpose intended, and acceptability for use on the Project.

4.14.2 To obtain such approval on makes or brands of material other than those specified in Contract Documents, and not previously approved during the bidding, the Contractor's request for approval of any substitution shall include:

.1 complete data substantiating compliance of the proposed substitution with the Contract Documents;

.2 product identification including manufacturer's name, address, and phone number:

.3 manufacturer's literature showing complete product description, performance and test data, and all reference standards:

.4 samples and colors in the case of articles or products;

.5 name and address of similar projects on which the product was used and date of installation;

.6 for construction methods, include a detailed description for the proposed method and drawings illustrating same;

.7 itemized comparison of proposed substitution with product or method specified and any cost reduction which shall benefit the Owner:

.8 accurate cost data on proposed substitution in comparison with product or method specified; and

.9 all directions, specifications, and recommendations by manufacturers for installation, handling, storing, adjustment, and operation.

4.14.3 The Contractor shall also submit with his request for approval a sworn and notarized statement which shall include all of the following representations by the Contractor, namely that the Contractor:

.1 has investigated the proposed product or method and determined that it is

equal or better in all respects to that specified and that it fully complies with all requirements of the Contract Documents;

.2 will meet all contract obligations with regard to this substitution;

.3 will coordinate installation of accepted substitutions into the work, making all such changes and any required schedule adjustments, at no additional cost to the Owner, as may be required for the Work to be complete in all respects;

.4 waives all claims for additional costs and additional time related to substitutions which consequently become apparent. Contractor also agrees to hold the Owner harmless from claims for extra costs and time incurred by other Subcontractors and suppliers, or additional services which may have to be performed by the Construction Program Manager and/or Design Consultant, for changes for extra work that may, at some later date, be determined to be necessary in order for the Work to function in the manner intended in the Contract Documents;

.5 will provide the same warranty and guarantee, and perform any work required in accordance therewith, for the substitution that is applicable to the specified item for which the substitution is requested;

.6 affirms material will be installed, handled, stored, adjusted, tested, and operated in accordance with the manufacturers' recommendation and as specified in the Contract Documents.

.7 affirms in all cases new materials will be used unless this provision is waived by notice from the Owner, or unless otherwise specified in the Contract Documents:

.8 affirms all material and workmanship will be in every respect in accordance with that which, in the opinion of the Owner, is in conformity with approved modern practice;

.9 has provided accurate cost data on the proposed substitution in comparison with the product or method specified.

4.14.4 Subject to the provisions of any applicable laws, approval for substitutions or equal products shall be at the sole discretion of the Owner, shall be in writing to be effective, and the decision of the Owner shall be final. The Owner may require tests of all materials proposed for substitution so submitted to establish quality standards, at the Contractor's expense. After approval of a substitution, if it is determined that the Contractor submitted defective information or data regarding the substitution upon which Owner's approval was based, and that unexpected or uncontemplated extensive redesign or rework of the project will be required in order to accommodate the substitution, or that the substituted item will not perform or function as well as the specified item for which substitution was requested, the Contractor will be required to furnish the original specified item or request approval to use another substitution; the Contractor shall pay all costs, expenses or damages associated with or related to the unacceptability of such a

substitution and the resultant use of another item and no time extension shall be granted for any delays associated with or related to such substitution.

4.14.5 If a substitution is approved, no change in brand or make will be permitted unless satisfactory, written evidence is presented to and approved by the Owner that the manufacturer cannot make scheduled delivery of the approved substituted item. Substitutions will not be considered for approval by the Owner if:

.1 the proposed substitution is indicated or implied on the Contractor's shop drawing or product data submittal and has not been formally submitted for approval by the Contractor in accordance with the above-stated requirements, or

.2 acceptance of the proposed substitution will require substantial design revisions to the Contract Documents or is otherwise not acceptable to the Owner.

4.14.6 Except as otherwise provided for by the provisions of any applicable laws, the Contractor shall not have any right of appeal from the decision of the Owner condemning any materials submitted if the Contractor fails to obtain the approval for substitution under this Article.

4.15 **USE OF SITE**

4.15.1 The Contractor shall confine operations at the site to areas provided by the Owner and as permitted by law, ordinances, permits, easements, right-of-way agreements and the Contract Documents. The Contractor shall not unreasonably encumber the site, in the opinion of the Owner with any materials, equipment or trailers, nor shall the Contractor block the entrances or otherwise prevent reasonable access to the site, other working and parking areas, completed portions of the Work and/or properties, storage areas, or areas of other facilities that are adjacent to the worksite. If the Contractor fails or refuses to move said material, equipment or trailers within 24 hours of notification by the Owner to so do, the Owner shall have the right, without further notice, to remove, at the Contractor's expense, any material, equipment and/or trailers which the Owner deems are in violation of this paragraph.

4.16 **CUTTING AND PATCHING OF WORK**

4.16.1 The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly and in accordance with the Contract Documents.

4.16.2 The Contractor shall not cut or otherwise alter the work of the Owner or any separate contractor except with the written consent of the Owner and of such separate contractor. After consent is given, the Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any separate contractors in cutting, patching or otherwise altering any work, or by excavation. The Owner shall not be required to accept Work with a cut, splice, or patch when such cut, splice or patch is not generally accepted practice for the particular work involved or is otherwise unworkmanlike in the opinion of the Owner.

4.16.3 Existing structures and facilities including but not limited to building, utilities, topography, streets, curbs, walks, etc., that are damaged or removed due to required excavations or other construction work, shall be patched, repaired or replaced by the Contractor to satisfaction of the Owner of such structures and facilities and authorities having jurisdiction. In event the local jurisdictional authorities require that such repairing and patching be done with their own labor and materials, the Contractor shall abide by such regulations and pay for such work.

4.17 **CLEANING UP**

4.17.1 The Contractor shall, at all times, keep the premises free from accumulation of waste materials or rubbish caused by the Contractor's operations. As a condition of Substantial Completion of the Work, the Contractor shall remove all the Contractor's waste materials and rubbish from and about the Project. Before final payment is made, the Contractor shall remove the Contractor's tools, construction equipment, machinery and surplus materials.

4.17.2 If the Contractor fails to clean up by Substantial Completion of the Work, the Owner may do so as provided in Paragraph 6.3 and the cost thereof shall be charged to the Contractor.

4.17.3 Burning of rubbish on the premises will NOT be permitted.

4.17.4 Debris shall be hauled to a place of legal disposal in a manner satisfactory to the Owner's Representative.

4.18 **COMMUNICATIONS**

4.18.1 The Contractor shall forward its communications and communications from any subcontractors to the Owner through the Design Consultant, unless instructed otherwise.

4.19 **ROYALTIES AND PATENTS**

4.19.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss, damages, costs or attorneys' fees on account thereof.

4.20 **INDEMNIFICATION**

4.20.1 To the fullest extent permitted by law, the Contractor shall, at the Contractor's sole cost and expense, indemnify, defend, and hold harmless the Owner, and the Design Consultant and their agents, representatives, and employees from and against all claims, actions, judgments, costs, liabilities, penalties, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, action, judgment, cost, liability, penalty, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom,

and (2) is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 4.20. Contractor specifically agrees that it has included an appropriate sum in its bid price, over and above what it otherwise would have bid, to compensate Contractor for all indemnity obligations contained in the Contract Documents.

4.20.2 In any and all claims against the Owner or the Design Consultant or any of their agents, representatives, or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 4.20 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

4.20.3 No provision of this Paragraph 4.20 shall give rise to any duties on the part of the Owner or the Design Consultant or any of their agents, representatives, or employees.

4.21 PERSONS AUTHORIZED TO SIGN DOCUMENTS

4.21.1 The Contractor, within five (5) days after the date of the Owner-Contractor Agreement, shall file with the Owner, a list of all persons who are authorized to sign documents such as contracts, certificates, and affidavits on behalf of the Contractor and to fully bind the Contractor to all the conditions and provisions of such documents in the event those persons are different from the Owner-Contractor Agreement signatures.

4.22 CONDITIONS AFFECTING THE WORK

4.22.1 The Contractor shall be responsible for taking all steps necessary to ascertain the nature and location of the Work and the general and local conditions which can affect the Work or the cost thereof. Failure by the Contractor to become fully acquainted with conditions which may affect the Work, including, but not limited to conditions relating to transportation, handling, storage of materials, availability of labor, water, roads, weather, topographic and subsurface conditions, multi-prime contract conditions, applicable provisions of law, and the character and availability of equipment and facilities needed prior to and during the execution of the Work, shall not relieve the Contractor of the Contractor's responsibilities under the Contract Documents and shall not constitute a basis for an adjustment in the Contract Sum or the Contract Time under any circumstances. The Owner assumes no responsibility for any understanding or representation about conditions affecting the Work made by any of the Owner's officers, employees, representatives, or agents prior to the execution of the Contract, unless such understandings or representations are expressly stated in the Contract Documents.

4.22. 2 If, in the execution of the Work, any valuable or historical items or materials of any kind are discovered within the work, such items or materials shall be the property of the Owner. The Contractor shall take reasonable precautions to prevent any persons from removing or damaging such items or materials and shall immediately upon discovery thereof and before removal, acquaint the Owner with such discovery and carry out the Owner's orders as to disposal of the same.

4.23 **AUDIT REQUIREMENTS/PUBLIC RECORDS**

In the performance of this Contract, the Contractor shall keep books, records and accounts of all activities related to the Contract, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the Owner and shall be retained by the Contractor for a period of five (5) years after termination of this Contract.

No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the Owner, under this Contract shall be subject to copyright by the Contractor in the United States or any other country.

All records, books and accounts related to the performance of this Contract shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. All records or documents created by Contractor or provided to Contractor by the Owner in connection with the activities or services provided by Contractor under the terms of this agreement, are public records and Contractor agrees to comply with any request for such public records or documents made in accordance with section 119.07 Florida Statutes. "Public Records" are defined "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency" Fla. Stat. 119.011(12).

Pursuant to Florida Statute Chapter 119, generally, and 119.0701 specifically, if records created by the OWNER or the Contractor related to the performance of the services under this Contract do not fall under a specific exemption under Florida or federal law, the records - whether created or maintained by the Contractor or the OWNER- must be provided to anyone making a public records request. It will be the Contractor's duty to identify any information in records created by the Contractor which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt.

A request to inspect or copy public records relating to this Contract must be made directly to the OWNER. If the OWNER does not possess the requested records, the OWNER shall immediately notify the Contractor of the request, and the Contractor must provide the OWNER with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided pursuant to Florida Statute Chapter 119 and Brevard County Board Policy. The duty to provide records includes providing such records in the records native format.

Should any person or entity make a public records request of the OWNER which requires or would require the OWNER to allow inspection or provide copies of records which the Contractor maintains are exempt under the Public Records Law or otherwise confidential, it shall be the Contractor's obligation to provide the Owner within a reasonable time of notification by the OWNER to the Contractor of the records request, of the specific exemption or confidentiality provision to allow the Owner to comply with the requirements of Florida Statute 119.07(1)(e) and (f). Should the Owner face any kind of legal action to require or enforce inspection or production of any records provided by the Contractor to the Owner which the Contractor maintains are exempt or confidential from such inspection/production as a public record, the Contractor shall hire and compensate attorney(s) who shall represent the interests of the Owner as well as the Contractor in defending such action. The Contractor shall also pay any costs to defend such action and shall pay any costs and attorney's fees which may be awarded pursuant to Fla. Stat. 119.12.

Should the Contractor fail to provide the public records to the OWNER within a reasonable time, the Contractor may be subject to penalties under s. 119.10.

The Contractor shall ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the OWNER.

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

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (321) 633-2046; Administrative Assistant; 2725 Judge Fran Jamieson Way, Suite B203, Viera, Florida 32940.

ARTICLE 5
SUBCONTRACTORS

5.1 **DEFINITION**

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or its authorized representative. The term Subcontractor does not include any separate contractor or that Contractor's subcontractors.

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform any of the Work at the site. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative thereof.

5.1.3 Nothing contained in the Contract Documents is intended to, nor shall it create, any contractual relationship between the Owner, the Design Consultant, or any of their agents, consultants, employees, independent contractors, or representatives and any Subcontractor, Sub-subcontractor, supplier or vendor of the Contractor, but the Owner shall be entitled to performance of all obligations intended for the Owner's benefit, and to enforcement thereof.

5.1.4 The Owner and Design Consultant will not deal directly with any Subcontractor or Sub-subcontractor or materials supplier. Communication will be made only through the Contractor. Subcontractor, Sub-subcontractors or material suppliers shall route requests for information or clarification through the Contractor to the Design Consultant with copies to the Owner.

5.2 **AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF WORK**

5.2.1 In addition to the prequalification of specified subcontractors prior to award of this Contract, the Contractor, in compliance with the requirements of the Contract Documents, shall furnish to the Owner, in writing, the names, contact name, addresses and telephone numbers of the subcontractors (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work prior to the first Application for Payment. The Owner will promptly reply to the Contractor in writing stating whether or not the Owner, or Design Consultant, after due investigation, has reasonable objection to any proposed person or entity that has not already been pre-qualified prior to award of this Contract. Failure of the Owner to reply within five (5) business days shall constitute notice of no reasonable objection. The Contractor understands and agrees that no contractual agreement exists for any part of the Work under this Contract between the Owner or Design Consultant and any of the Contractor's Subcontractors or Sub-subcontractors. Further, the Contractor understands and agrees that the Contractor alone is responsible to the Owner for all of the Work under this Contract and that any review of Subcontractors or Sub-subcontractors by the Owner will not in any way make the Owner responsible to any Subcontractor, nor responsible for the actions or failures of any Subcontractor or Sub-subcontractor.

5.2.1 The Contractor shall not contract with any such proposed person or entity to whom the Owner has made reasonable objection.

5.2.2 If the Owner has reasonable objection to any proposed person or entity under Subparagraph 5.2.1, the Contractor shall name a substitute to whom the Owner has no reasonable objection. The Contract Sum shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued, subject to an audit of said difference by the Owner; provided, however, that no increase in the Contract Sum shall be allowed for any such substitution unless the Contractor has acted promptly and responsively in submitting names as required; or if the Owner has stated Owner's objection in writing before the submission by the Subcontractors of a bid acceptable to Contractor; or if the rejected Subcontractor was unable to enter into work; or if the rejected Subcontractor failed to comply with all applicable laws; or if the rejected Subcontractor was not an on-going business in the field of the proposed Subcontract; or if the rejected Subcontractor does not have a labor force and the means of supply compatible with the scope of the subcontract.

5.2.3 If the Owner requires a change of any proposed Subcontractor or person or organization previously accepted by the Owner, except for reasons stated in 5.2.2, the Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and an appropriate Change Order shall be issued, subject to an audit by Owner.

5.2.4 The Contractor shall make no substitution for any Subcontractor, person or entity previously selected if the Owner makes reasonable objection to such substitution.

5.3 **SUBCONTRACTUAL RELATIONS**

5.3.1 By an appropriate written agreement the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of these Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner. Said agreement shall preserve and protect the rights of the Owner under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice Owner's rights. Contractor shall also provide each subcontractor with a copy of the payment bond required by this Agreement, and with notice that (1) claims under such bond should be made in conformance with section 255.05 of the Florida Statutes, and (2) subcontractor should not execute Waivers of Claim under such bond unless the subcontractor has, in fact, been paid. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph 5.3, and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to his Sub-subcontractors.

5.3.2 The provisions herein regarding Subcontractor approvals shall in no way affect the liability of the Contractor to the Owner regarding performance of all obligations by or payment of Subcontractors. Approval to subcontract and of any given Subcontractor shall not to any degree relieve the Contractor of the Contractor's obligation to perform or have performed to the full satisfaction of the Owner all of the work required by this Contract.

5.4 QUALIFICATION SUBMITTALS

5.4.1 Specific qualification submittals, in addition to those set forth in the Information to Bidders, may be required of Subcontractors, installers and suppliers for certain critical items of the Work. These required qualification submittals are set forth in detail in the Technical Specifications and shall be collected and submitted by the Contractor for review and approval by the Design Consultant. All information required of a single Subcontractor, installer or supplier shall be contained in a single, complete submittal. The Contractor shall submit the required qualification information within ten (10) days after receipt of the Design Consultant's request.

5.4.2 The Owner may reject any proposed Subcontractor, installer or supplier, or any qualification submittals related thereto, for the following reasons:

.1 the Contractor's failure to submit requested information within the specified time; or

.2 the Contractor's failure to provide all of the requested information; or

.3 the Contractor's submission of a Subcontractor, installer or supplier, or qualifications thereof, which are unacceptable in the judgment of the Owner, the Construction Program Manager, or Design Consultant.

5.5 PREPARATORY WORK

5.5.1 Before starting any Section of Work, the responsible Subcontractor shall carefully examine all preparatory work that has been executed to receive the Subcontractor's work. The Subcontractor shall check carefully, by whatever means are required, to ensure that the Subcontractor's work and adjacent related work will finish to proper contours, planes and levels. The Subcontractor shall promptly notify the Contractor and the Owner of any defects or imperfections in preparatory work which will, in any way, affect satisfactory completion of his Work. Absence of such notification will be construed as an acceptance of preparatory work and later claims of defects therein will not be recognized.

5.5.2 Under no condition shall a Section of Work proceed prior to preparatory work having been completed, cured, dried, and otherwise made satisfactory to receive such related work. Responsibility for timely installation of all materials rests solely with the Contractor, who shall maintain coordination control at all times.

ARTICLE 6
WORK BY OWNER OR BY SEPARATE CONTRACTORS

6.1 **OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS**

6.1.1 The Owner reserves the right to perform work related to the Project, including work proposed under a change order, with the Owner's forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract.

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

6.2 **MUTUAL RESPONSIBILITY**

6.2.1 The Contractor shall afford other contractors and the Owner reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate the Work with that of the Owner and other contractors, and to store the Contractor's apparatus, materials, supplies and equipment in such orderly fashion at the site of the Work as will not unduly or unreasonably interfere with the progress of the Work or the work of any other contractors.

6.2.1.1 If the execution or result of any part of the Work depends upon any work of the Owner or of any separate contractor, the Contractor shall, prior to proceeding with the Work, inspect and promptly report to the Owner in writing any apparent discrepancies or defects in such work of the Owner or of any separate contractor that render it unsuitable for such proper execution or result of any part of the Work.

6.2.1.2 Failure of the Contractor to so inspect and report shall constitute an acceptance of the Owner's or separate contractor's work as fit and proper to receive the Work, except as to defects which may develop in the Owner's or separate contractor's work after completion of the Work and which the Contractor could not have discovered by its inspection prior to completion of the Work.

6.2.2 Should the Contractor cause damage to the work or property of the Owner or of any separate contractor on the Project, or to other work on the Site, or delay or interfere with the Owner's work on ongoing operations or facilities or adjacent facilities or said separate contractor's work, the Contractor shall be liable for the same; and, in the case of another contractor, the Contractor shall attempt to settle said claim with such other contractor prior to such other contractor's institution of litigation or other proceedings against the Contractor.

6.2.2.1 If such separate contractor sues the Owner or Design Consultant on account of any damage, delay or interference caused or alleged to have been caused by the Contractor, the Owner shall notify the Contractor, and the Contractor shall defend the Owner and Design Consultant in such proceedings at the Contractor's

expense. If any judgment or award is entered against the Owner or Design Consultant, the Contractor shall satisfy the same and shall reimburse the Owner and Design Consultant for all damages, expenses, attorneys' fees and other costs which the Owner or Design Consultant incurs as a result thereof.

6.2.3 Should a separate contractor cause damage to the Work or to the property of the Contractor, or cause delay or interference with the Contractor's performance of the Work, the Contractor shall present directly to said separate contractor any claims it may have as a result of such damage, delay or interference (with an information copy to the Owner) and shall attempt to settle its claim against said separate contractor prior to the institution of litigation or other proceedings against said separate contractor.

6.2.3.1 In no event shall the Contractor seek to recover from the Owner or the Design Consultant, and the Contractor hereby warrants to the Owner and Design Consultant that it will not seek to recover from them, or any of them, any costs, expenses (including, but not limited to, attorney's fees) or damages or other losses incurred by the Contractor as a result of any damage to the Work or property of the Contractor or any delay or interference caused by any separate contractor.

6.2.3.2 In order to carry out the intent of this Article 6, Contractor agrees that privity of contract exists between Contractor and any separate contractor, as defined herein, for the purpose of disposing of the liabilities or obligations which are imposed upon said parties to each other hereunder; and Contractor agrees to accept service of process and to sue and be sued in Contractor's own name in any litigation which may arise hereunder between Contractor and any separate contractor.

6.2.4 Whenever Contractor receives items from another Contractor or from Owner for storage, erection or installation, the Contractor receiving such items shall give receipt for items delivered, and thereafter will be held responsible for care, storage and any necessary replacing of item or items received.

6.2.5 When certain items of equipment and other work are indicated as "NIC" (not in contract), or to be furnished and installed under other contracts, any requirements for preparation of openings, provision of backing, etc., for receipt of such "NIC" work will be furnished upon written request of the Contractor who shall properly form and otherwise prepare the Contractor's work in a satisfactory manner to receive such "NIC" work.

6.3 OWNER'S RIGHT TO PERFORM DISPUTED WORK

6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.17, or for accomplishing coordination, or doing required cutting, filling, excavating or patching as required by Paragraph 4.16, the Owner may carry out such Work and charge the cost thereof to the contractors responsible therefore as the Owner shall determine to be just. Such determination shall be final.

6.4 COORDINATION OF THE WORK

6.4.1 By entering into this contract, Contractor acknowledges that there may be other

contractors on the site whose work will be coordinated with that of the Contractor's work. The Contractor expressly warrants and guarantees that the Contractor will cooperate with other contractors and will do nothing to delay, hinder or interfere with the work of other separate contractors or the Owner. The Contractor also expressly agrees that, in the event the Contractor's work is hindered, delayed, interfered with or otherwise affected by a separate contractor, the Contractor's sole remedy will be a direct action against the separate contractor as described in this Article 6. Contractor will have no remedy, and hereby expressly waives and releases any remedy, against the Owner or Design Consultant on account of delay, hindrance, interference or other event caused by a separate contractor.

ARTICLE 7
MISCELLANEOUS PROVISIONS

7.1 **SUCCESSORS AND ASSIGNS**

7.1.1 The Owner and the Contractor each binds themselves, their partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the Owner, nor shall the Contractor assign any moneys due or to become due hereunder, without the previous written consent of the Owner and the Contractor's Surety.

7.2 **CLAIMS AND DISPUTES**

7.2.1 **Definition**: A claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

7.3.2 **Decision of Architect**: Claims, including those alleging an error or omission by the Architect shall be referred initially to the Architect for action. Notice of Claim as required herein shall be required as a condition precedent to litigation of a Claim between the Contractor and the Owner as to all such matters arising prior to the date final payment is due, regardless of (1) whether such matters relate to execution and progress of the Work, or (2) the extent to which the Work has been completed.

7.3.3 **Time Limits on Claims**: Claims by either party must be made within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be made by written notice. An additional Claim made after the initial Claim has been implemented by Change Order will not be considered unless submitted in a timely manner.

7.3.4 **Continuing Contract Performance**: Pending final resolution of a Claim, unless

otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

7.3.5 **Waiver of Claims - Final Payment**: The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

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

7.3.6 **Claims for Concealed Unknown Conditions/Differing Site Conditions**: If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed. The Owner and Design Consultant will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Contract Documents, and that no change in the terms of the Contract is justified, the Owner shall so notify the Contractor in writing stating the reasons. If the Owner and the Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for final determination.

7.3.7 **Claims for Additional Cost**: If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property. If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds. Claim shall be filed in accordance with the procedure established herein.

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

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

7.3.9 **Injury or Damage to Person or Property**: If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, excluding claim for damage from delay, of any of the other party's employees or agents, or of others for whose acts such party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding twenty one (21) days after first observance. The notice shall provide sufficient detail to enable the other party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided in Subparagraphs 7.3.7 and 7.3.8.

7.4 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND (FOR BIDS $100,000 AND OVER)

7.4.1 The Contractor shall furnish bonds, on the bond form provided in this document, covering the faithful performance of the Contract and the payment of all obligations and damages arising thereunder whether same be direct or indirect, real or consequential in a form and with a surety satisfactory to the Owner. It is expressly agreed that the Surety shall be responsible for any delay or liquidated damages assessed against Contractor.

7.4.2 The Contractor is required to furnish a Performance Bond and a Labor and Material Payment Bond, on the bond form provided in this document, each in the amount of one-hundred percent (100%) of the Contract sum, and recorded in the public records of Brevard County. Bonds and Notice of Commencement shall be submitted within five (5) days of Notice to Proceed. No work shall commence onsite and no payment shall be made until certified copies of the recorded Bonds are submitted and approved by the Owner. A copy of the Bonds shall be provided to each subcontractor.

7.5 RIGHTS AND REMEDIES

7.5.1 The duties and obligations of the Contractor imposed by the Contract Documents and the rights and remedies of the Owner available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

7.5.2 Except as may be specifically agreed in writing, the failure of the Owner or the Design Consultant to insist in any one or more instances upon the strict performance of any one or more of the provisions of this Contract, or to exercise any right herein contained or provided by law, shall not be construed as a waiver or relinquishment of the performance of any other provisions or right(s), or of the right to subsequently demand such strict performance or exercise such right(s), and the rights shall continue unchanged and remain in full force and effect.

7.5.3 The Contractor agrees that the Contractor can be adequately compensated by money damages for any breach of this Contract which may be committed by the Owner. The Contractor hereby agrees that no default, act, or omission of the Owner or the Design Consultant, except for failure to make progress payments as required by the Contract Documents, shall constitute a material breach of the Contract entitling the Contractor to cancel or rescind the provisions of this Contract, or (unless the Owner shall so consent or direct in writing) to suspend or abandon performance of all or any part of the Work.

7.6 **TESTS**

7.6.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the Contractor shall give the testing agency, Owner and Design Consultant timely notice of its readiness so the Design Consultant and the Owner may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities such as bacteriological tests, pressure tests. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests or approvals such as soil borings, soil testing, density, compaction, concrete slump and strength.

7.6.1.1 Unless otherwise stipulated in other Contract Documents, the Contractor shall pay for all utilities required for testing of installed equipment of all of the Contractor's work and work of each Subcontractor. Labor and supervision required for making such tests shall be provided at no additional cost to the Owner.

7.6.2 If the Owner and/or Design Consultant determine that any Work requires special inspection, testing, or approval which Subparagraph 7.6.1 does not include, the Owner will instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 7.6.1. If such special inspection or testing reveals a failure of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including compensation for the Owner's and Design Consultant's additional services made necessary by such failure.

7.6.3 Inspections and tests required to establish compliance with Contract Documents, as provided for in the Contract Documents, will be made by a pre-qualified, independent testing agency selected by the Owner. The cost of the initial services of such agency will be paid by the Owner. When the initial tests indicate non-compliance with the Contract Documents, any subsequent testing occasioned by non-compliance shall be performed by the same agency and the cost thereof shall be borne by the Contractor. Representatives of the testing agency shall have access to the Work at all times. The Contractor shall provide facilities for such access in order that the agency may properly perform its functions.

7.6.4 The independent testing agency, employed by the Owner, shall prepare the test reports, logs, and certificates applicable to the specific inspections and tests and promptly deliver the specified number of copies to the designated parties. Certificates of inspection, testing or approval required by public authorities shall

be secured by the Contractor and promptly delivered to the Owner, in adequate time to avoid delays in the Work or final payment therefore.

7.6.5 The Contractor shall pay for and have sole responsibility for inspections or testing performed exclusively for the Contractor's own convenience.

7.7 FIELD ENGINEERING

7.7.1 The Contractor shall provide and pay for field engineering services required for the project for Survey work required in the execution of the project and/or for Civil or other professional engineering services specified, or required to execute contractor's construction methods.

7.7.2 The Contractor shall retain the services of a registered land surveyor licensed in the State of Florida to identify existing control points and property line corner stakes indicated on the drawings, as required.

7.7.3 Any engineer or land surveyor selected by the Contractor must be acceptable to the Owner and Engineer.

7.7.3.1 The Surveyor shall locate and protect control points prior to starting site work, and preserve all permanent reference points during construction; make no changes or relocations without prior written notice to the Engineer, and report to the Engineer when any reference point is lost or destroyed, or required relocation because of necessary changes in grades or locations. The Surveyor shall be required to replace Project control points which may be lost or destroyed and establish replacements based on original survey control.

7.7.4 The Contractor shall ensure the Project Survey establishes a minimum of two permanent bench marks on the site, referenced to data established by survey control points; includes record locations, with horizontal and vertical data, on Project Record Documents; establishes lines and levels, locate and layout, by instrumentation and similar means.

7.7.5 The Contractor shall furnish three (3) sealed copies of final certified as-built, showing location of project, pervious surfaces, topography and retention areas at a minimum.

7.8 UNENFORCEABILITY OF ANY PROVISION

7.8.1 If any provision of this Contract is held as a matter of law to be unenforceable, against public policy or unconscionable, the remainder of the Contract shall be enforceable without such provision.

7.9 ATTORNEYS' FEES, VENUE AND OTHER EXPENSES

7.9.1 In the event any action, suit, or proceeding is commenced to enforce the provisions of this document, each party shall bear its own attorney's fees and costs, and any trial shall be non-jury.

Venue for any legal action brought by any party to this Agreement to interpret, construe, or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida. The Contract shall be governed by the laws of the State of Florida.

If any provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired.

7.10 **MISCELLANEOUS REQUIREMENTS**

Hard hats will be required at construction site in this Contract from start to completion of work (OSHA CFR 1926.100/OSHA CFR 1910.135). Each contractor, employee, and visitor at the construction site in this Contract will be required to wear a hard hat. The Contractor shall enforce the wearing of hard hats by contractors, employees and visitors. The Contractor shall post notice of "Hard Hat Area".

ARTICLE 8
TIME

8.1 **DEFINITIONS**

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Final Completion of the Work, as defined in Subparagraph 8.1.4, including adjustments under written change orders, if any. The Contractor shall complete the Work within the Contract Time.

8.1.2 The date of commencement of the Work is the date of the Notice to Proceed. The Contractor shall not mobilize, commence Work or store materials or equipment on site until: (1) written Notice to Proceed is issued; (2) all Bonds and Certificates of Insurance have been executed, delivered to and accepted by the Owner; and (3) Contractor has delivered to Owner the Contractor's as-planned schedule, original job cost estimate, list of sub-contractors with 24 hour emergency phone numbers (general contractor, etc.), and corporate resolution designating the Contractor's representative.

8.1.3 The Date of Substantial Completion of the Work is the Date certified by the Owner when the Work is sufficiently complete, in accordance with the Contract Documents, so the Owner can take beneficial occupancy and use the Work for the use for which it is intended, with all of the Project's parts and systems operable as required by the Contract Documents, and with only incidental corrective work and any final cleaning beyond that needed for the Owner's full use.

8.1.4 The date of Final Completion of the Work is the date certified by the Owner when the Work is totally complete, to include all items listed on the inspection report following substantial completion inspection, in accordance with the Contract Documents, and the Owner may fully occupy and use all of the Work for the use for which it is intended.

8.2 **PROGRESS AND COMPLETION**

8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

8.2.2 The Contractor shall begin the Work on the date of commencement as defined in Subparagraph 8.1.2. The Contractor shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion and Final Completion within the time frames stated in the Contract Documents.

8.2.3 **SPECIFIC DATES**

The schedule below contains certain specific dates in addition to date of Notice to Proceed and Time for Substantial and Final Completion. These dates shall be adhered to and are the last acceptable dates unless modified, in writing, by mutual agreement between the Contractor and the Owner. All dates indicate midnight unless otherwise stipulated. The only exceptions to this schedule are defined in paragraph 8.3, DELAYS AND EXTENSIONS OF TIME.

Substantial Completion	**90 calendar days** from Notice to Proceed ***(includes two (2) weeks for Permitting).***
Final Completion	(All required closeout documents) **30 calendar days** from contracted Substantial Completion

8.3 **DELAYS AND EXTENSIONS OF TIME**

8.3.1 The time during which the Contractor is delayed in the performance of the Work, by the acts or omissions of the Owner or the Design Consultant or their employees or agents, acts of god, unusually severe and abnormal climatic conditions, fires, epidemics, quarantine restrictions, strikes, riots, civil commotions or freight embargoes, or other conditions beyond the Contractor's control and which the Contractor could not reasonably have foreseen and provided against, shall be added to the time for completion of the Work (i.e., the Contract Time) stated in the Agreement; provided, however, that no claim by the Contractor for an extension of time for delays will be considered unless made in compliance with the requirements of this Article and other provisions of the Contract Documents. Contractor agrees that a change in the Contract Time may only be authorized by a written Change Order authorized and executed by the Brevard County Board of County Commissioners. No person has authority to orally, or in writing, grant any change in the Contract Time except as stated herein.

8.3.2 Neither the Owner nor the Design Consultant shall be obligated or liable to the Contractor for, and the Contractor hereby expressly waives and releases, any claims against the Owner and the Design Consultant on account of any indirect or direct damages, costs or expenses of any nature which the Contractor, its Subcontractors, or Sub-subcontractors, or any other person may incur as a result of any delays, interferences, changes in sequence or the like, which are reasonable, foreseeable, contemplated, or avoidable by Contractor, arising from or

out of any act or omission of the Owner or its agents, employees, consultants, independent contractors or any governmental representative. The Contractor's sole and exclusive remedy, in any such events, shall be an extension of the Contract Time, as determined under the provisions of these Contract Documents.

8.3.3 The Contract Time shall be adjusted only pursuant to Paragraph 8.3.1 and Article 12. Contract Time may only be adjusted if the work is suspended pursuant to Paragraph 3.4 or the Contractor has experienced an excusable delay described in Subparagraphs 8.3.1 and 8.3.4. To request an extension of the Contract Time, the Contractor shall furnish such justification and supporting evidence as the Owner may deem necessary for a determination of whether or not the Contractor is entitled to an extension of time under the provisions of the Contract, and shall further conform to all of the requirements set forth below. The burden of proof to substantiate a claim for an extension of the Contract Time shall rest with the Contractor, including evidence that the cause was beyond the Contractor's control. If the Owner finds that the Contractor is entitled to any extension of the Contract Time, determination and all relevant data will be incorporated into the schedule in the first update after an Agreement is reached. The Contractor acknowledges and agrees that actual delays in activities which, according to the schedule do not affect the Contract Time, will not be the basis for a change in Contract Time. The Contractor acknowledges and agrees that contract time extensions will be granted only to the extent that excusable delays exceed the available float in the Contractor's schedule. The Contractor acknowledges and agrees that all available float in the Contractor's schedule belongs to the Owner and may be utilized, without additional cost, by the Owner.

8.3.3.1 When change orders or delays are experienced by the Contractor and the Contractor requests an extension of time, the Contractor shall submit to the Owner a written Time Impact Analysis illustrating the influence of each change or delay on the current contract schedule completion date. Each Time Impact Analysis shall include a fragnet demonstrating how the Contractor proposes to incorporate the change order or delay into the Project Schedule. A fragnet is defined as a sequence of new activities and/or activity revisions that are proposed to be added to the existing schedule to demonstrate the influence of delay and the method for incorporating delays and impacts into the schedule as they are encountered.

8.3.3.2 Each Analysis shall demonstrate the estimated time impact based on the events of delay, the date the change was given to the Contractor, the status of construction at that point in time, and the event time computation of all activities effected by the change or delay. The event times used in the analysis shall be those included in the latest update of the Project Schedule or as adjusted for the events of delay.

8.3.3.3 Time extensions will be granted only to the extent that equitable time adjustments for the activity or activities affected exceed the total or remaining float along the path of activities at the time of actual delay or at the time notice to proceed was issued for a change. Each Time Impact Analysis shall be submitted within ten (10) calendar days after a delay occurs or notice of direction for proceeding with a change order is given to the Contractor. In cases where the Contractor does not submit a Time Impact Analysis for a specific change order or delay within the specified period of time, the Contractor shall be deemed to have irrevocably

waived its rights to any additional time and cost.

8.3.3.4 Approval or rejection of each Time Impact Analysis by the Owner shall be made, in writing, within fifteen (15) calendar days after receipt of each Time Impact Analysis, unless subsequent meetings and negotiations are necessary. Upon approval by change order, a copy of a Time Impact Analysis shall be returned to the Contractor for incorporation into the schedule.

8.3.3.5 Upon mutual agreement by both parties, fragnets illustrating the influence of change orders and delays shall be incorporated into the Project Schedule during the first update after agreement is reached.

8.3.3.6 Extensions in the Contract Time and Change Orders are subject to extension-in-time audit by the Owner or Design Consultant at the discretion of the Owner.

The Contractor agrees that, even though the Owner, Contractor and Design Consultant have previously signed a Change Order containing an extension-in-time resulting from a change in or addition to the Work that said extension in the Contract Time may be adjusted by an audit after the fact by the Construction Program Manager. If such an audit is to be made, the Construction Program Manager must undertake the audit and make a ruling within thirty (30) days after the completion of the Work under the Change Order.

The Contractor agrees that any extension of the Contract Time to which the Contractor is entitled arising out of a change order undertaken on a force accounting (labor and materials) basis, shall be determined by an extension-in-time audit by the Owner after the Work of the change order is completed. Such rulings shall be made by the Owner within thirty (30) days after a request for same is made by the Contractor, except said thirty (30) days will not start until the Work under the Change Order is completed.

8.3.4 Subject to other provisions of the Contract, the Contractor may be entitled to an extension of the Contract Time (but no increase in the Contract Sum) for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, Subcontractors or suppliers as follows:

.1 labor disputes and strikes (including strikes affecting transportation), that do, in fact, directly and critically affect the progress of the Work; however, an extension of Contract Time on account of an individual labor strike shall not exceed the number of days of said strike:

.2 acts of God, tornado, fire, hurricane, blizzard, earthquake, or typhoon that damage completed work or stored materials:

.3 unusually severe and abnormal inclement weather; however, the Contract Time will not be extended due to normal inclement weather. The time for performance of this Contract, as stated in the Contract Documents, includes an allowance for calendar days which may not be available for construction out-of-doors. For the purposes of this Contract, the Contractor agrees that this allowance of calendar days per month are to be

considered as normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the Owner that there was greater than normal inclement weather considering the full term of the Contract Time using a ten year average of accumulated record mean values from climatological data compiled by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration for the locale of the Project, and that such alleged greater than normal inclement weather actually delayed the Work or portions thereof which had an effect upon the Contract Time, the Contractor shall not be entitled to an extension of time. If the total accumulated number of calendar days lost due to inclement weather, from the start of Work until Substantial Completion, exceeds the total accumulated number to be expected for the same period from the aforesaid table, time for completion will be extended by the number of calendar days needed to include the excess number of calendar days lost.

.4 acts of the public enemy, acts of the state, Federal or local government in its sovereign capacity, and acts of another contractor in the performance of a contract with the Owner relating to the Project.

8.3.5 The Contractor shall not be entitled to and hereby expressly waives any extension of time resulting from any condition or cause unless said claim for extensions of time is made in writing to the Owner and Design Consultant within ten (10) days of the first instance of delay. Circumstances and activities leading to such claim shall be indicated or referenced in a daily field inspection report for the day(s) affected; otherwise, all such claims are waived and released by the Contractor. In every such written claim, the Contractor shall provide the following information:

.1 Nature of the delay;
.2 Date (or anticipated date) of commencement of delay;
.3 Activities on the progress schedule affected by the delay, and/or new activities created by the delay and their relationship with existing activities; (Fragnet)
.4 Identification of person(s), organization(s) or event(s) responsible for the delay;
.5 Anticipated extent of the delay; and
.6 Recommended action to avoid or minimize the delay.

8.3.6 No change in Contract Sum will be authorized because of adjustment of Contract Time due to unusually severe and abnormal, inclement weather (tornado, hurricane, typhoon or flood).

8.3.7.1 If the said Contractor shall neglect, fail or refuse to complete the Work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay the Owner the amount specified in the Owner-Contractor Agreement, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.

8.3.7.2 The Liquidated Damages amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain.

ARTICLE 9
PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the Owner-Contractor Agreement and, including change orders thereto, is the total amount payable by the Owner to the Contractor for the Performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Fifteen (15) days prior to the first Application for Payment, the Contractor shall submit to the Owner, through the Design Consultant, a Schedule of Values allocated to the various portions of the Work, and any other supporting data the Owner may require. This Schedule of Values, unless objected to by the Owner, shall be used as a basis for the Contractor's Applications for Payment and only for this purpose. If no agreement can be reached as to the accuracy of the Schedule of Values, the Owner will determine the value and this will become the basis for the Contractor's Applications for Payment. If approved by the Owner, the Contractor may include in his Schedule of Values a line item for mobilization which shall include a reasonable amount of mobilization for the Contractor. Surety hereby consents to, agrees and accepts Contractor's Schedule of Values.

9.3 PAYMENTS TO THE CONTRACTOR

9.3.1 All requests for monthly payments must be submitted, in triplicate, in an AIA Form G702 "format" to the office of the Owner's Representative. If Contractor is using a format other than AIA G702 for submittal of payment applications, the format must be submitted to Owner's Representative for review and approval prior to submission of the first Application for Payment. The Facilities Construction Division shall be the office of the Owner's Representative.

9.3.2 The Contractor is required to pay all money due subcontractors and material dealers promptly. Each application for payment issued by the Contractor shall contain an affidavit which states "This is to certify that all subcontractors supplying services or items provided under previous Certificates for Payment are paid."

In addition, NOTARIZED, ORIGINAL, "Waivers of Rights Against Payment Bond" will be required from all subcontractors, material suppliers and vendors (whether the County was sent a "Notice to Owner" or not) with each monthly payment request which waives any claim the subcontractor, supplier or vendor might have against the payment bond through the previous month's pay request. NO "CONDITIONAL" WAIVERS WILL BE ACCEPTED.

Waivers of Rights Against Payment Bond must be submitted for anyone that has delivered materials or performed a service during the prior month's payment application period.

If a supplier/subcontractor/materialman **did not** provide materials or services for the period covered by the prior months payment application period, the Contractor will be required to provide the following to the Owner:

- a "certified", notarized list, including a statement that no deliverables have been received or services performed in the prior payment application period for the following:
- anyone that has submitted a Notice to Owner during any prior months payment application period;
- suppliers/subcontractors/materialmen that submitted a Partial Waiver in a prior months payment application period.

The Contractor shall provide such "certified", notarized list until a Final Waiver of Rights Against Payment Bond is received.

If a supplier/subcontractor/materialmen submits an affidavit which contradicts the Contractor's assertion that no deliverables or services were provided, a Waiver will be required.

The General Contractor shall inform subcontractors not to execute Affidavit of Payments unless the subcontractor has in fact been paid.

Notwithstanding the foregoing, pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded a payment and performance bond and provided the County with a written consent from the Surety regarding the Project or payment in question, no such waivers shall be required. The Surety may, in a writing served on the County, revoke its consent or direct that the County withhold a specified amount from a payment, which shall be effective upon receipt.

9.3.3 Per Brevard County Policy BCC-07, no Change Order or Change Directive work is to be started without proper signatures and paperwork being completed.

9.3.4 Waivers of Claims: Upon completion of the Contract and before final payment is made, the Contractor shall submit notarized, original final Waivers of Rights Against Payment Bond, satisfactory to the Owner's representative, certifying all payrolls, material bills, supplier's bills and other indebtedness incurred by the Contractor in connection with the construction of the project have been paid in full. NO "CONDITIONAL" WAIVERS WILL BE ACCEPTED. Contractor shall comply with standard closeout procedures of Brevard County Facilities Construction Division, a copy of which is *attached hereto*, and also issued to the Contractor for signature at the pre-construction meeting.

Notwithstanding the foregoing, pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded a payment and performance bond and provided the County with a written consent from the Surety regarding the

Project or payment in question, no such waivers shall be required. See Subparagraph 9.3.2 herein.

9.4 **APPLICATIONS FOR PAYMENT**

9.4.1 Prior to the date for each progress payment established in the Owner-Contractor Agreement, the Contractor, in accordance with the provisions herein, shall submit to the Owner, in the form specified by the Owner, an itemized Application for Payment. This Application shall be notarized, supported by such data substantiating the Contractor's right to payment as the Owner may require, including but not limited to, the Contractor's certification that all work for which payment is requested has been completed in full in accordance with the Contract Documents, and reflecting retainage, if any, as provided elsewhere in the Contract Documents. The Contractor shall also swear to and certify that the Contractor has paid all due and payable amounts due to subcontractors and material suppliers for which previous certificates for payment were issued and payments received from the Owner.

9.4.2 The Owner will hold retainage in accordance with Florida Statutes on the amount of all progress payments until acceptance and Final Completion of the Work, whether or not the Owner has occupied any or all of the Project before such time.

9.4.3 Payments **may** be made by the Owner at Owner's discretion, on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site by the Contractor. Payments for materials or equipment stored on the site shall only be considered upon submission by the Contractor of satisfactory evidence (for example, releases or paid invoices from the Seller) that the Contractor has acquired title to such material, an itemized inventory of materials and certification that the materials will be utilized on the Work prior to the next Payment Application under this Contract and that it is satisfactorily stored, protected, and insured or that other procedures satisfactory to the Owner that will protect the Owner's interests have been taken. Materials once paid for by the Owner become the property of the Owner and may not be removed from the work site without the Owner's written permission.

9.4.3.1 Owner will be under no obligation to make payment to the Contractor on account of materials or equipment not incorporated in the Work but delivered and stored at the site unless the Contractor, in the Contractor's Schedule of Values, includes line items for such delivered and stored materials or equipment.

9.4.3.2 It is specifically understood and agreed that an inspection of the materials by the Owner and/or Construction Program Manager, the Design Consultant, or any agency retained by any of them, shall not in any way subject the Owner to pay for the inspected materials, or any portion thereof, even though incorporated in the Work, if the inspected materials shall in fact turn out to be unfit to be used in the Work, nor shall such inspection be considered as any waiver of objection to the Work on account of the unsoundness or imperfection of the material used.

9.4.3.3 Unless otherwise provided for elsewhere in the Contract Documents, no payments will be made for any materials or equipment stored off or away from the Work Site.

9.4.4 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in this Article 9 as "liens"; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

9.5 CERTIFICATES FOR PAYMENT

9.5.1 The Design Consultant will, after receipt of the Contractor's Application for Payment, issue a Certificate for Payment to the Owner, with a copy to the Contractor, for such amount as the Design Consultant determines is properly due, or notify the Contractor in writing of their reasons for withholding a Certificate as provided herein.

9.5.2 The Owner's approval of the Contractor's submitted progress schedule and monthly updates as required herein shall be a condition precedent to the processing and payment of any Application for Payment. The Contractor shall be entitled to progress payments only as determined from the currently approved and updated schedule.

The submission of Superintendent Daily Reports, evidence of up-to-date as-built documents and updated Schedule shall also be a condition precedent of the processing and payment of any Application for Payment.

9.6 PROGRESS PAYMENTS

9.6.1 After a complete and properly submitted Certificate for Payment has been delivered to the Design Consultant, the Owner shall make payment in a manner consistent with the Florida Prompt Payment Act (Florida Statute 218.735).

9.6.2 The Contractor shall promptly pay each Subcontractor (including suppliers, laborers, and material suppliers) performing labor or furnishing material for the Work out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, also require each Subcontractor to make payments to his Sub-subcontractors in similar manner.

9.6.3 The Owner may, on request and at its discretion, furnish to any subcontractor information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Design Consultant on account of Work done by such subcontractor.

9.6.4 Neither the Owner and/or the Design Consultant shall have any obligation to pay or to see to the payment of any monies to any subcontractor or materialman.

9.6.5 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

9.6.6 Contractor acknowledges that the Contractor may not lien Owner's interest in the Project site, pursuant to Florida law. Contractor agrees to advise all subcontractors and material suppliers of the non-lienable nature of the project and to further furnish each such person or entity a copy of the Labor and Material Payment Bond for the project.

9.7 PAYMENTS WITHHELD

9.7.1 The Owner and/or Design Consultant may decline to certify payment and may withhold their Certificate, in whole or in part, to the extent necessary to protect the Owner. If the Design Consultant is unable to certify payment in the amount of the Application, they will notify the Contractor. If the Contractor and the Design Consultant cannot agree on a revised Payment Application, the Owner will issue payment for the percentage of work the Owner reasonably determines the Contractor has completed to date. The Design Consultant may decline to certify payment because of evidence or observations and may make adjustments in future certificates to such extent as may be necessary in their opinion to protect the Owner from loss, because of:

.1 defective work not remedied,
.2 third party claims filed, whether in court, in arbitration or otherwise, or reasonable evidence indicating the probability of filing of such claims,
.3 failure of the Contractor to make payments properly to Subcontractors for labor, materials or equipment,
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum,
.5 damage to the Owner or another contractor,
.6 reasonable evidence that the Work will not be completed within the Contract Time, or within any Contract Milestones as established in the Contract Documents,
.7 failure or refusal of the Contractor to carry out the Work in accordance with the Contract Documents, or
.8 failure or refusal of the Contractor to properly schedule and coordinate the Work, to provide progress schedules, reports and updates, or to otherwise fully comply with Division 1 entitled "Schedules and Reports";

9.7.2 When the above grounds in Subparagraph 9.7.1 are resolved, payment shall be made for amounts withheld because of them.

9.8 FAILURE OF PAYMENT

9.8.1 If the Owner does not make payment to the Contractor, as required under Florida Prompt Payment Act (Florida Statute 218.735), upon receipt of the Contractor's **approved** Application for Payment by the Design Consultant, through no fault of

the Contractor, and the Owner otherwise not being entitled under the Contract Documents or applicable law to withhold payment, then the Contractor may, upon seven (7) additional days' written notice to the Owner, stop the Work until payment of the amount owing according to the Contract Documents has been received.

9.9 **SUBSTANTIAL COMPLETION**

The Contractor shall notify the Owner, in writing, that the Work will be ready for inspection to determine if it is substantially complete on or after a date stated in the notice. The notice shall be given at least seven (7) calendar days in advance and shall be forwarded to the Owner through the Design Consultant. Inspection and testing shall take place at a time(s) mutually agreeable to the Contractor, Design Consultant, and Owner. The Owner shall determine if Substantial Completion has been accomplished as defined in Subparagraph 8.1.3, and the Design Consultant shall produce a written list of unfinished Work and defective Work, commonly referred to as a "punchlist".

9.9.1 Prior to the Substantial Completion inspection, the Contractor shall provide the Owner with a list of items which, in the Contractor's opinion, are to be completed or corrected. This list is for the Owner's information only and does not waive the Owner's right to complete performance of the Contract. When the Design Consultant determines that the Work is substantially completed, then the Design Consultant will issue a Certificate of Substantial Completion which shall establish the Date of Substantial Completion. *Warranties required by the Contract Documents shall commence on the Date of Final Completion of the Work.*

9.9.2 The acceptance of any payment after the Certificate of Substantial Completion has been issued shall constitute a waiver and full release of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the Application for Payment for Substantial Completion, and except for the retainage sums due at Final Completion and acceptance.

9.9.3 The issuance of the Certificate of Substantial Completion does not indicate final acceptance of the project by the Owner, and the Contractor is not relieved of any responsibility for the Work and meeting the Contract Document requirements.

9.9.4 Should the Design Consultant determine that the Work is not substantially complete, they shall provide the Contractor with written notice stating why the Work is not substantially complete. The Contractor shall re-request in writing that the Owner and Design Consultant perform a Substantial Completion inspection. Costs, if any, associated with such re-inspections shall be assessed to the Contractor.

9.10 **FINAL COMPLETION AND FINAL PAYMENT**

9.10.1 Upon receipt of the documentation required by Article 9.9, and of written notice and certification by the Contractor that the Work is ready for final inspection, and acceptance, and upon receipt of a final Application for Payment, the Owner will promptly make such inspection and, when the Owner finds the Work acceptable

under the Contract Documents and the Contract fully performed, the Owner will issue a final Certificate of Payment stating that, to the best of their knowledge, information and belief, the Work has been completed in accordance with the terms and conditions of the Contract Documents, and that the entire balance found to be due the Contractor, and noted in said Final Certificate, is due and payable. The Final Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's entitlement to final payment as set forth in Subparagraph 9.9 and 9.10.2 have been fulfilled. Payment shall be made in full to the Contractor, in accordance with Florida's Prompt Payment Act (Florida Statute 218.735), provided that the requirements of Article 9 have been fulfilled.

9.10.2 Neither the final payment nor the remaining retained percentage shall become due until the Work is free and clear of any and all liens and the Contractor submits to the Owner:

.1 an affidavit from Contractor and all subcontractors, sub-subcontractors and material suppliers that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work have been paid or otherwise satisfied;

.2 Consent of Surety, if any, to final payment;

.3 if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designated by the Owner;

.4 as-built drawings in the form and quantity required by the Contract Documents and approved by the Design Consultant, operation and maintenance manuals, and other project close-out submittals, as required by the contract Documents; and

.5 a written certification that:

.a the Contractor has reviewed the requirements of the Contract Documents,

.b the Work has been inspected by the Contractor for compliance with all requirements of the Contract Documents,

.c pursuant to this inspection, the Contractor certifies and represents that the Work complies in all respects with the requirements of the Contract Documents, and

.d the Contractor further certifies and represents that all equipment and systems have been installed in accordance with the Contract Documents and have been tested in accordance with specification requirements and are operational.

9.10.3 If any Subcontractor refuses to furnish an original, notarized release or waiver required by the Owner, the Owner may withhold from the final payment any sum that the Owner has reason to believe may be needed to satisfy any claim arising from the Work and instead pay those monies to the Surety, who shall disburse funds as the Surety deems approvable. Notwithstanding the foregoing, when the Contractor has furnished and recorded a payment and performance bond and provided the County with a written consent from the Surety regarding the Project or payment in question, no such release or waiver shall be required. See Subparagraph 9.3.2 herein.

9.10.4 The making of final payment shall not constitute a waiver of any claims by the Owner against the Contractor.

9.10.5 The acceptance of final payment shall constitute a waiver and release of all claims by the Contractor that have not been already made to the Owner, in writing, and are stated as unsettled in the Application for Final Payment.

9.11 **OWNER'S RIGHT TO OCCUPY INCOMPLETE WORK**

9.11.1 Should the Project, or any portion thereof, be incomplete for Beneficial Occupancy or Final Completion at the scheduled dates, the Owner shall have the right to occupy any remaining portion of the Project. In such an event, the Contractor shall not be entitled to any extra compensation, nor shall the Contractor interfere in any way with said normal full use of that portion of the Project. In such event the Contractor shall not be relieved of any responsibilities of the Contract, including the required times of completion. Such occupancy by the Owner does not constitute Beneficial Occupancy or Final Completion.

9.12 **LIQUIDATED DAMAGES**

9.12.1 Should the Contractor fail to substantially complete the Work on or before the date stipulated for Substantial Completion (or such later date as may result from extension of time granted by Owner), the Contractor shall, upon staff's recommendation to and approval by the Board of County Commissioners, pay the Owner as liquidated damages the sum of $500 for each consecutive calendar day that Substantial Completion remains unfulfilled beyond the date allowed by the Contract, which sum is agreed upon as a reasonable and proper measure of damages which the Owner will sustain per day by failure of the Contractor to complete work within time stipulated. It is recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor. The Owner may deduct any Liquidated Damages incurred under this paragraph from pending Payment Applications.

9.12.2 For each consecutive calendar day that the Work remains incomplete after the date established for Final Completion, the Owner shall, upon staff's recommendation to and approval by the Board of County Commissioners, retain from the compensation otherwise to be paid to the Contractor the sum of $500. This amount is the minimum measure of damages the Owner will sustain by failure of the Contractor to complete all remedial work, correct deficient work, clean up the project and other miscellaneous tasks as required to complete all work specified. This amount is in addition to the liquidated damages prescribed above and shall be added to such damages for any period of time that the Contractor is late in achieving both Substantial and Final Completion.

CONTRACTOR INSTRUCTIONS FOR CONTRACT COMPLIANCE

PROCEDURE FOR CHANGE ORDERS
OR
CONSTRUCTION CHANGE DIRECTIVES

(**NO** changes are to be undertaken without **signed authorization.**)

A **CHANGE ORDER** is a written order to the Contractor signed by the Owner and/or Architect issued after the execution of the Contract, authorizing a change in the terms of the Contract, the project scope of work, the contract price, and/or the construction completion date.

A **CONSTRUCTION CHANGE DIRECTIVE** is a change directive signed by the Facilities Construction Division Director and the County Manager directing an addition, deletion or revision in the Scope of Work. The Construction Change Directive is necessary when no Agreement exists among the Architect/Engineer of Record, Brevard County and the Contractor on the dollar amount of a necessary change in the scope of work and/or extension of time to the construction contract. The Construction Change Directive is used (1) when an unsafe, hazardous or other similar condition exists, (2) when failure to achieve prompt resolution of the change will result in a demobilization of the Contractor, its subcontractors and/or agents, (3) when failure to achieve prompt resolution will result in additional cost, and/or a significant delay in completing the project. A Construction Change Directive may identify the cost or method of determining the cost and the impact to the construction schedule, but does not change the contract price or the contract time. It is evidence that the parties expect that the change will be incorporated in a subsequently issued Change Order.

The Contractor's proposal substantiating a Change Order and/or Construction Change Directive shall be itemized and segregated by labor and materials for the various components of the change in work (no aggregate labor or material totals will be acceptable), and shall be accompanied by similarly detailed and signed proposals of any subcontractors and/or persons who will furnish materials or equipment for incorporation in the project. The proposal shall also include the Contractor's estimate of the time required to perform the change, the last date that Authorization to Proceed can be issued which will not impact the date of Substantial Completion or cause additional material or mobilization expenses, and its impact on the critical path.

PROCEDURE FOR MONTHLY PAY REQUEST

Processing of a **complete and correct** monthly pay requests is based on the following:

- Certification (signed and sealed) by the Project Architect or Engineer, if applicable.

- **Notarized, ORIGINAL** "Waivers of Rights Against Payment Bond" will be required from all subcontractors, material suppliers and vendors (whether the County was sent a "Notice to Owner" or not) with each monthly payment application which waives any claim the subcontractor, supplier or vendor might have against the payment bond through the previous month's pay request. Partial Releases must include a release date through the prior pay period (NO "CONDITIONAL" WAIVERS WILL BE ACCEPTED). A Partial Release will be required with each Pay Application until a Final Waiver is received.

  Waivers of Rights Against Payment Bond must be submitted for anyone that has delivered materials or performed a service during the prior months payment application

period.

I. If a supplier/subcontractor/materialman **did not** provide materials or services for the period covered by the prior months payment application period, the Contractor will be required to provide the following to the Owner:

a "certified", notarized list, including a statement that no deliverables have been received or services performed in the prior payment application period for the following:

anyone that has submitted a Notice to Owner during any prior months payment application period;

suppliers/subcontractors/materialmen that submitted a Partial Waiver in a prior months payment application period.

The Contractor shall provide such "certified", notarized list until a Final Waiver of Rights Against Payment Bond is received.

If a supplier/subcontractor/materialmen submits an affidavit which contradicts the Contractor's assertion that no deliverables or services were provided, a Waiver will be required.

The General Contractor shall inform subcontractors not to execute Affidavit of Payments unless the subcontractor has in fact been paid.

Notwithstanding the foregoing, pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded a payment and performance bond and provided the County with a written consent from the Surety regarding the Project or payment in question, no such waivers or releases shall be required. The Surety may, in a writing served on the County, revoke its consent or direct that the County withhold a specified amount from a payment, which shall be effective upon receipt.

- Executed Change Orders, updated CPM Schedule, Daily Work Logs, Submittal Log from General Contractor and Subcontractors for the application period.

- Any other documentation that may be required by the Owner or Architect to substantiate the Contractor's Application for Payment, as outlined in Contract & Bidding Documents.

The Pay Application **will not** be processed until **ALL** items are satisfactorily submitted to the Owner. After a **complete and properly submitted** Pay Application has been submitted, the Owner shall make payment in a manner consistent with the Florida Prompt Payment Act (Florida Statute 218.735). Pay Application may be affected by Holidays.

PROCEDURES AND FORMS FOR FINAL PAY

You need to have all required forms and original, notarized waivers submitted to Facilities Construction, with copies submitted to the Architect. As a minimum, the following documents are needed to receive **FINAL PAY** on a project:

☐	AIA DOCUMENT G-701	CHANGE ORDERS - ALL FOR PROJECT
☐	AIA DOCUMENT G-702	APPLICATION & CERTIFICATE FOR PAYMENT
☐	AIA DOCUMENT G-703	CONTINUATION SHEET
☐	AIA DOCUMENT G-704	CERTIFICATE OF SUBSTANTIAL COMPLETION
☐	AIA DOCUMENT G-707	CONSENT OF SURETY TO FINAL PAY W/ NO EXCEPTIONS

Note: If exceptions are listed on the Consent of Surety, a letter will be required from the Surety acknowledging ALL exceptions.

☐	FACILITIES CONSTRUCTION	CERTIFICATE OF FINAL COMPLETION
☐	AIA DOCUMENT G706	CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS & CLAIMS
☐	AIA DOCUMENT G706A	CONTRACTOR'S AFFIDAVIT OF RELEASE OF LIENS

- ☐ Three (3) sets of Warranties, Guarantees and O&M Manuals required by Contract, including a **complete** list of all such items under warranty, length of warrantee/guarantee, contact name for service with phone number and address.
- ☐ "As-Built" drawings (AutoCad format acceptable to the County) from job, including red-lined site plan.
- ☐ Survey Drawing showing the finished floor elevation of all buildings and walkways, the location of all buildings, walks, paving, walls, catch basins, and manholes. The survey work shall also include all retention/detention structures, parking structures and related work. A permanent bench mark shall be established at the direction of the Architect. The survey shall be performed by a registered land surveyor with a Florida license. The survey will not be made until all improvements have been completed and shall be marked **"As-Built Survey"**.
- ☐ **Notarized, ORIGINAL** Waivers of Rights Against Payment Bond from all subcontractors and/or material and equipment suppliers. NO "CONDITIONAL" WAIVERS WILL BE ACCEPTED. When the Contractor has furnished and recorded a payment and performance bond and provided the County with a written consent from the Surety regarding the Project or payment in question, no such waivers shall be required.
- ☐ Certification that all Utility bills (ie; FP&L, local water) have been paid.
- ☐ A complete list of subcontractors with addresses, phone numbers and contact person.
- ☐ Any other documentation required by the Contract Documents.

It is the Contractor's responsibility to ensure the completeness of the **FINAL PAY PACKAGE**. An incomplete package will result in delay of **FINAL PAY**. **FINAL PAY REQUESTS** will not be processed until ALL Substantial Completion punchlist work is complete and the required documents are received by Facilities Construction. **FINAL PAY REQUEST** must be submitted no later than **30 DAYS** after Substantial Completion.

Mary Ellen Donner
Brevard County Board of County Commissioners
Parks and Recreation Department Director

Contractor's Signature _____ Date _____

ARTICLE 10
PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 Neither the Owner, the Design Consultant, nor their agents, employees or representatives are responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for safety precautions and programs in connection with the Work. Contractor shall be solely responsible for initiating, maintaining and supervising means, methods, techniques, sequences, procedures and all safety precautions and programs in connection with the Work. This requirement applies continuously throughout Contract performance, until Final Payment is made, and is not limited to regular working hours.

Contractor shall comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 (OSHA Code of Federal Regulations), April 2001 Edition or later. Failure to comply with said standards will result in the following:

1. Owner will issue a "verbal" warning to Contractor of non-compliance;
2. Owner will issue a "written" warning to Contractor of non-compliance;
3. Owner will contact OSHA and send notice to the Contractor's insurance carrier.

10.2 SAFETY OF PERSONS AND PROPERTY

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

.1 all employees on the Work and all other persons who may be affected thereby;

.2 all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his Subcontractors or Sub-subcontractors, machinery, equipment and all hazards shall be guarded or eliminated in accordance with all applicable safety regulations; and

.3 other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, permits, rules, regulations and lawful orders of any public authority bearing on the safety or persons or property or their protection from damage, injury or loss. Contractors shall comply with the requirements of the Trench Safety Act, Chapter 553, Florida Statutes. Each specific subcontract within the scope of such act shall be in compliance with the Act and Contractor hereby acknowledges the Bid complies with and was prepared in accordance with the Act.

10.2.2.1 The Contractor shall at all times safely guard the Owner's property from injury or losses in connection with the Contract. Contractor shall at all times safely guard and protect work and adjacent property from damage as provided by law and the Contract Documents. All passageways, guard fences, lights and other facilities required for protection by applicable safety regulations must be provided and maintained by the Contractor.

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

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

10.2.5 The Contractor shall promptly remedy, at the Contractor's own cost and expense, all damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible. The foregoing obligations of the Contractor are in addition to obligations under Paragraph 4.22 and 6.2. In case of failure on the part of the Contractor to make good such damage, the Owner may, upon two (2) calendar days written notice, proceed to repair, rebuild or otherwise restore such property as may be necessary, and the cost thereof will be deducted from any monies due or to become due the Contractor.

10.2.6 The Contractor is responsible for the proper packing, shipping, handling and storage (including but not limited to shipment or storage at the proper temperature and humidity) of materials to be incorporated in the Work, so as to insure the preservation of the quality and fitness of the material for proper installation and incorporation in the Work. For example, but not by way of limitation, Contractor shall, when necessary, place material on wooden platforms or other hard and clean surfaces and not on the ground, and place material under cover in any appropriate shelter or facility. Stored materials or equipment shall be located so as to facilitate proper inspection. Material and equipment which is delivered crated shall remain crated until ready for installation. Lawns, grass plots or other private property shall not be used for storage purposes without written permission of owner or lessee unless otherwise within terms of the easements obtained by the Owner.

10.2.7 The Contractor shall give notice in writing at least 48 hours before breaking ground, to all persons, Public Utility Companies, owners of property having structures or improvements in proximity to site of the Work, superintendents, inspectors, or those otherwise in charge of property, streets, water pipes, gas pipes, sewer pipes, telephone cables, electric cables, railroads or otherwise, who may be affected by the Contractor's operation, in order that they may remove any obstruction for which they are responsible and have representative on site to see that their property is properly protected.

10.2.8 Contractor shall field locate all utilities and acknowledges that all utilities are not necessarily shown in the Contract Documents, or may be incorrectly located thereon. The Contractor shall protect all utilities encountered while performing its work, whether indicated on the Contract Drawings or not. The Contractor shall maintain utilities in service until moved or abandoned. The Contractor shall exercise due care when excavating around utilities and shall restore any damaged utilities to the same condition or better as existed prior to starting the Work, at no cost to the Owner. The Contractor shall maintain operating utilities or other services, even if they are shown to be abandoned on the Contract Drawings, in service until new facilities are provided, tested and ready for use.

10.2.9 The Contractor shall return all improvements on or about the site and adjacent property which are not shown to be altered, removed or otherwise changed to conditions which existed prior to starting work.

10.2.10 The Contractor shall protect the Work, including but not limited to, the site, stored materials and equipment, excavations, and excavated or stockpiled soil or other material, intended for use in the Work, and shall take all necessary precautions to prevent or minimize damage to same or detrimental effect upon performance caused by or due to rain, snow, ice, run-off, floods, temperature, wind, dust, sand and flying debris.

10.2.11 The Contractor's superintendent shall take all steps reasonably necessary to prevent accidents and protect workers, material, equipment and property.

10.2.12 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

10.3 **EMERGENCIES**

In any emergency affecting the safety of persons or property, the Contractor shall act to prevent threatened damage, injury or loss. The Contractor shall notify the Owner of the situation and all actions taken immediately thereafter. If, in the opinion of the Contractor, immediate action is not required, the Contractor shall notify the Owner of the emergency situation and proceed in accordance with the Owner's instructions. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for Changes in the Work.

ARTICLE 11
INSURANCE

11.1 **CONTRACTOR'S INSURANCE**

The Contractor will be required to procure and maintain, at their own expense and without cost to the County, until final acceptance by the County of all products or services covered by the purchase order or contract, the following types of insurance. The policy limits required are to be considered minimum amounts:

GENERAL LIABILITY INSURANCE: policy with a $1,000,000 combined single limit for each occurrence to include the following coverage: Operations,

Products and Completed Operations, Personal Injury, Contractual Liability covering this contract, "X-C-U" hazards, and Errors & Omissions.

AUTO LIABILITY INSURANCE: which includes coverage for all owned, non-owned and rented vehicles with a $1,000,000 combined single limit for each occurrence.

Workers' Compensation and Employers Liability Insurance: Workers Compensation insurance providing statutory benefits as required in the State of Florida. The Contractor shall require any Subcontractor to provide evidence of this coverage. Additionally, if the contract requires working on or around a navigable waterway, the Contractor and all Subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in compliance with Federal statutes or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each Subcontractor, vendor or supplier.

In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the vendor shall also be protected by a Professional Liability Insurance Policy in the amount of $1,000,000 per claim.

In the event the contract involves services related to construction projects, the vendor shall also procure and maintain a Builders Risk Insurance Policy or Installation Floater with loss limits equal to the value of the construction project.

In addition to the above, Specialty Insurance policies covering specific risks of loss (including but not limited to, for example; Longshore coverage, Crane and Rigging, Inland Marine, etc.) may be required by Brevard County Insurance and Risk Management. Any additional specialty insurance coverage requirement will be dictated by the specific goods, products or services provided under the subject contract and insurance underwriting standards, practices, procedures or products available in the commercial insurance market at the time of the contract inception. The Vendor is required to procure and maintain all such specialty coverage in accordance with prudent business practices within the Vendors industry.

The Contractor shall have five (5) days to provide certificates of insurance to the County demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this contract. The certificates of insurance shall indicate that the policies have been endorsed to cover the County as an additional insured (a waiver of subrogation in lieu of additional insured status on the workers compensation policy is acceptable) and that these policies may not be canceled or modified without thirty (30) days prior written notice to the County.

11.1.1 The Contractor shall purchase and maintain in companies properly licensed and qualified to do business in the State of Florida, and acceptable to the Owner, such insurance as will protect the Contractor, the Owner, the Design Consultant and their agents, representatives, and employees from claims which may arise out of

or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

11.1.2 The insurance required by Subparagraph 11.1.1 shall be primary and non-contributing to any insurance possessed or procured by the Owner, and limits of liability shall be not less than those set forth in herein or required by law, whichever is greater.

11.1.3 The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations.

11.2 **EFFECT OF SUBMISSION OF CERTIFICATES**

11.2.1 The Owner shall be under no obligation to review any Certificates of Insurance provided by the Contractor or to check or verify the Contractor's compliance with any and all requirements regarding insurance imposed by the Contract Documents. The Contractor is *fully liable* for the amounts and types of insurance required herein, and is not excused should any policy or certificate of insurance provided by the Contractor not comply with any and all requirements regarding insurance imposed by the Contract Documents.

11.3 **FAILURE OF COMPLIANCE**

11.3.1 Should the Contractor fail to provide and maintain in force any and all insurance, or insurance coverage required by the Contract Documents or by law, the Owner shall be entitled to recover from the Contractor all amounts payable, as a matter of law, to Owner or any other parties, including but not limited to the Construction Program Manager and the Design Consultant, had the required insurance or insurance coverage been in force. Said recovery shall include, but is not limited to interest for the loss of use of such amounts of money, plus all attorney's fees, costs and expenses incurred in securing such determination and any other consequential damages arising out of the failure of the Contractor or insurance company to comply with the provisions of the Contract Documents, or any policy required hereby, or any other requirements regarding insurance imposed by law. Nothing herein shall limit any damages for which Contractor is responsible as a matter of law.

11.4 **LICENSED INSURANCE COMPANIES**

11.4.1 All insurance companies providing the above insurance shall be licensed in compliance with the laws of the State of Florida and shall be general lines of insurance.

ARTICLE 12
CHANGES IN THE WORK

12.1 **CHANGES IN THE WORK**

12.1.1 Changes in the Work may be accomplished after execution of the Contract and without invalidating the Contract, by Change order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 12 and elsewhere in the Contract Documents.

12.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Design Consultant; a Construction Change Directive requires agreement by the Owner and Design Consultant and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Design Consultant only.

12.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

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

12.2 **CHANGE ORDERS**

12.2.1 A Change Order is a written instrument prepared by Design Consultant and signed by Owner, Contractor and Design Consultant, stating their agreement upon all of the following:

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

12.3 **CONSTRUCTION CHANGE DIRECTIVES**

12.3.1 A Construction Change Directive is a written order prepared by the Design Consultant and signed by the Owner and Design Consultant, directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

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

12.3.3 If the Construction Change Directive provides for an adjustment to the Contract

Sum, the adjustment shall be based on one (1) of the following methods:

.1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 unit prices stated in the Contract Documents or subsequently agreed upon;
.3 cost to be determined in a manner agreed upon by the parties and mutually acceptable fixed or percentage fee; or
.4 as provided in Subparagraph 12.3.6.

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

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

12.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Design Consultant on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Clause 12.3.3, the Contractor shall keep and present, in such form as the Design Consultant shall prescribe, an itemized accounting together with appropriate supporting data (including receipts, invoices, and records including but not limited to payroll, equipment, ownership or rental records). Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 12.3.6 shall be limited to the following:

.1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker's or workmen's compensation insurance;
.2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
.3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 costs of premiums for all bonds and insurance, permit fees and sales, use or similar taxes related to the Work; and
.5 additional costs of supervision and field office personnel directly attributable to the change.

12.3.7 **ON ALL CHANGE ORDERS, THE MAXIMUM ALLOWABLE CHARGE FOR OVERHEAD SHALL BE FIVE PERCENT (5%), THE MAXIMUM PROFIT SHALL BE FIVE PERCENT (5%) AND THE MAXIMUM BOND CHARGE SHALL BE TWO PERCENT (2%) OF THE NET INCREASE IN ANY ONE CHANGE ORDER.**

12.3.8 Pending final determination of cost to Owner, amounts NOT IN DISPUTE may be included in Applications for payment. The amount of credit to be allowed by Contractor to Owner for a deletion or change which results in a net decrease in Contract Sum shall be actual net cost as confirmed by Design Consultant. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

12.3.9 If the Owner and Contractor do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Design Consultant for determination.

12.3.10 When the Owner and the Contractor agree with the determination made by the Design Consultant concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

12.3.11 Allowable costs for net changes in the work may include labor, material, sales tax, the rental of power tools and equipment actually used or a reasonable price for the use of power tools and equipment owned by the Contractor, based upon their life expectancy and purchase price, utilities, pro rata charges for forepersons, and payroll charges such as employer's FICA contribution, Public Liability and Worker's Compensation Insurance, but only if all such costs are incurred as the direct result of the changes in the Work. Items considered as overhead, which are included in the percentage markup allowed by this Article, and which cannot therefore be allowed as cost items, shall include such things as insurance other than that mentioned above, superintendent, timekeeper, clerks, security, use of small tools, incidental job costs, home office expenses, charges for estimating change proposals, and all other expenses of whatever type. The change in cost for labor and material bonds and for performance bond relative to the value of the change order shall be allowable costs, but no overhead or profit shall be applied. Percentages for overhead and profit shall be applied only to the **net cost** of the changed Work (difference in cost between original and revised Work).

12.4 **CONTRACTOR NOTICE OF CHANGE**

12.4.1 If the Contractor asserts that any instructions, information, event or occurrence has caused a change in or addition to the Work which change causes an increase or decrease in the Contractor's cost or time required for the performance of any part of the Work under the Contract, the Contractor shall give the Owner written notice before conditions are disturbed and before proceeding to execute the Work. Contractor's notice shall be given promptly enough to avoid delaying the Work and in no instance later than ten (10) working days after such instructions, information, event or occurrence has caused a change. If the Owner agrees that the Work involved is extra Work, a Change Order shall be issued as provided in this Article. No claims for extra Work shall be allowed unless the notice required by this Article is given by the Contractor within the time allowed, unless the Work is performed pursuant to the written order of the Owner as provided in this Article. Contractor's notice shall include the instructions or circumstances that are the basis of the claim and the Contractor's best estimate of the cost and time

involved.

12.5 **GENERAL PROVISIONS RELATED TO CHANGES**

12.5.1 The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed pursuant to the provisions of Article 12, and which the Contractor, its Subcontractors or Sub-subcontractors or any other person may incur as a result of delays, interferences, suspensions, accelerations, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the Work performed pursuant to this Article 12. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of the Contractor's direct costs as compensable hereunder and an extension of the Contract Time, but only in accordance with the provisions of the Contract Documents.

12.5.2 **CHANGES REQUIRING A DECREASE IN CONTRACT SUM.** If a Change in the Work will result in a decrease in the Contract Sum, the Owner may request a quotation by the Contractor of the amount of such decrease for use in preparing a Change Order. The Contractor's quotation shall be forwarded to the Owner within five (5) days of the Owner's request and, if acceptable to the Owner, shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Contract Documents, and/or on such other basis as the parties may mutually determine. If the parties are unable to so agree, the amount of such decrease shall be the total of the estimated reduction in actual cost of the Work, as determined by the Owner, plus ten percent (10%) thereof as overhead and profit.

12.5.3 No claim by the Contractor for an increase in the contract sum or time hereunder shall be allowed if asserted after final payment under this Contract. No claim relating to or flowing from a particular change shall be allowed after execution of the Change Order relating to that change.

12.5.4 **ALL CHANGE ORDERS MUST BE AUTHORIZED AND/OR APPROVED BY THE BOARD OF COUNTY COMMISSIONERS. THE BOARD OF COUNTY COMMISSIONERS HAS ALSO DELEGATED THE AUTHORITY TO THE COUNTY MANAGER TO AUTHORIZE THE INITIATION OF WORK PRIOR TO BOARD APPROVAL WHEN IN COMPLIANCE WITH THE FOLLOWING CRITERIA DESCRIBED IN BREVARD COUNTY POLICY BCC-27:**

.1 Authorize work associated with Construction Contract Change Orders in an amount up to $100,000.00, when within budgeted amount for the project.

.2 Authorize work associated with Change Orders to construction contracts when an unsafe, hazardous condition exists and/or when failure to achieve

prompt resolution of the change will result in a demobilization of the contractor, or a significant delay in completing the project, in an amount not to exceed $100,000.00 and when within the budgeted amount of the project.

.3 Authorize work associated with Construction Change Directives equal to $100,000.00 when within the budgeted amount of the project.

The Construction Change Directive is used when an unsafe, hazardous or other similar condition exists, and/or when failure to achieve prompt non-resolution of the change will result in a demobilization of the contractor, or a significant delay in completing the project. A Construction Change Directive does not change the contract price or the contract time, but is evidence that the parties expect that the change will be incorporated in a subsequently issued Change Order following negotiations by the parties.

12.6 **ADMINISTRATIVE CHANGES IN THE WORK**

12.6.1 The Design Consultant shall have authority to order administrative changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by the issuance of an Architectural Supplemental Instruction (ASI) and shall be binding on the Owner and the Contractor. The Contractor shall carry out such instructions promptly.

ARTICLE 13
UNCOVERING AND CORRECTION OF WORK

13.1 **UNCOVERING OF WORK**

13.1.1 If any portion of the Work should be covered contrary to the request of the Owner, or to requirements specifically expressed in the Contract Documents, or to requirements of applicable Construction Permits, it must, if required in writing by the Owner, be uncovered for the Owner's observation and replaced at the Contractor's expense.

13.1.2 If any other portion of the Work has been covered which the Owner has not specifically requested to observe prior to being covered, the Owner may request to see such Work and it shall be uncovered by the Contractor. If such work is found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is found not in accordance with the Contract Documents, the Contractor shall pay costs of uncovering and replacement.

13.2 **CORRECTION OF WORK**

13.2.1 The Contractor shall promptly reconstruct, replace or correct all Work rejected by the Owner as defective, as failing to conform to the Contract Documents, or as not in accordance with the guarantees and warranties specified in the Contract Documents, whether observed before or after Substantial or Final Completion, and whether or not fabricated, installed or completed. The Contractor shall bear

all costs of correcting such rejected Work, including compensation for the Design Consultant's additional services made necessary thereby.

13.2.2 If the Contractor does not proceed with the correction of rejected Work within a reasonable time fixed by written notice from the Owner, the Owner may elect to (1) replace or correct such Work and charge the Contractor the cost incurred by the Owner, or (2) terminate this Contract for default as provided in Paragraph 14.3. If the Contractor does not pay the cost of such replacement or correction and the removal and storage within ten (10) calendar days thereafter, the Owner may charge the Contractor by an appropriate Change Order. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

13.2.3 Nothing contained in Article 13.2 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including Paragraph 4.6 hereof. The establishment of the time period of one year after the Date of Final Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work which became deficient within such period of time, and has no relationship to the time within which the Contractor's obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct Work.

13.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

13.3.1 If the Owner prefers to knowingly accept defective or non-conforming Work, the Owner may do so. In which case, a Change Order must be issued to reflect a reduction in the Contract sum. If the amount of a reduction is determined after final payment, it shall be paid to the Owner by the Contractor. The only method for the Owner to accept defective or non-conforming Work shall be by a written change order signed by the Brevard County Board of County Commissioners. Absent such a change order, no acceptance of defective or non-conforming Work is permitted.

ARTICLE 14
TERMINATION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 If the Work is stopped for a period of one hundred twenty (120) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees, or any other persons performing any of the Work under a contract with the Contractor, then the Contractor may, upon seven (7) additional days' written notice to the Owner terminate the Contract and recover from the Owner payment on a quantum meruit basis, for all Work executed. The Contractor shall not be entitled to collect and hereby expressly waives and

releases any claim to any profit on work not performed and any damages related to that portion of the Contract which has been terminated.

14.2 **TERMINATION FOR CONVENIENCE OF THE OWNER**

14.2.1 The Owner may, at any time upon ten (10) days' written notice to the Contractor and to the Contractor's surety, which notice shall specify that portion of the Work to be terminated and the date said termination is to take effect, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the work for the convenience of the Owner. The Contractor's sole remedy, in the event of such termination, will be the allowable termination costs permitted by Article 14.4. Contractor shall include termination clauses identical to Article 14 in each of his Subcontracts.

14.3 **DEFAULT TERMINATION**

14.3.1 The Owner may, upon five (5) days' written notice to the Contractor and to the Contractor's surety, terminate (without prejudice to any right or remedy of the Owner or any subsequent buyer of any portion of the Work) this contract and may take possession of the Work and complete the Work by contract or otherwise in any one of the following circumstances:

.1 if the Contractor refuses or fails to prosecute the Work or any separable part thereof with such diligence as will ensure the Substantial or Final Completion of the Work within the Contract Time, or fails to complete the Work within said periods;

.2 if the Contractor is in material default in carrying out any provisions of the Contract;

.3 if the Contractor fails to supply a sufficient number of properly skilled workers or proper equipment or materials;

.4 if the Contractor fails to make prompt payment to Subcontractors or material suppliers or for materials or labor;

.5 if the Contractor disregards laws, permits, ordinances, rules, regulations or orders of any public authority having jurisdiction, or fails to follow the instructions of the Owner:

.6 if the Contractor violates any provisions of the Contract Documents; or

14.3.2 If, after the Contractor has been terminated for default pursuant to Paragraph 14.3, it is determined that none of the circumstances set forth in Subparagraph 14.3.1 exist, then such termination shall be considered a termination for convenience pursuant to Paragraph 14.2. In such case, the Contractor's sole remedy will be costs permitted by Article 14.4.

14.3.3 If the Owner terminates the employment of the Contractor, pursuant to Article 14.3, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the compensation to be paid to the Contractor hereunder exceeds the expense of completing the Work (including compensation for additional managerial, design, administrative and inspection services and any damages for delay), such excess shall be paid to the Contractor.

14.3.4 If Owner's expenses to complete the Work shall exceed the unpaid balance, the Contractor and sureties shall be liable to the Owner for such excess. If the right of the Contractor to proceed with the Work is partially or fully terminated, the Owner may take possession of and use in completing the Work any materials, appliances, supplies, plant and equipment as may be on the site of the terminated portion of the Work and necessary for the completion of the Work. If the Owner does not fully terminate the right of the Contractor to proceed, the Contractor shall continue to perform the part of the work that is not terminated.

14.4 ALLOWABLE TERMINATION COSTS

14.4.1 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 14.2, then the Owner shall only be liable to the Contractor for those costs reimbursable to the Contractor in accordance with Subparagraph 14.4.2, plus a markup of ten percent for profit and overhead on the actual, fully accounted costs recovered under 14.4.2; provided however, that if there is evidence that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of the allowable termination payment to reflect the indicated amount of loss. Contractor shall submit any claim of reimbursable cost, as stated in this paragraph, within 10 days of receipt of Notice of Termination, or such claims are waived, released and forever barred.

14.4.2 If the Owner terminates the whole or any portion of the Work pursuant to Paragraph 14.2, the Owner shall pay the Contractor the amounts determined as follows:

.1 an amount for supplies, services, or property accepted by the Owner pursuant to Clause 14.5.1.6, or acquired pursuant to Clause 14.5.1 and not heretofore paid for, and to the extent provided in the Contract, such amount shall be equivalent to the aggregate price for such supplies or services computed in accordance with the price or prices specified in the Contract, appropriately adjusted for any saving of freight or other charges; and

.2 the total of:

(a) the cost incurred in the performance of the Work terminated, including initial costs and preparatory expense allocatable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under Paragraph 14.4.2.1;

(b) the cost of settling and paying claims arising out of the termination of Work under Subcontracts or orders, pursuant to Paragraph 14.5.1.5, which are properly chargeable to the terminated portion of the Work (exclusive of amounts paid or payable on account of completed items of equipment delivered or services furnished by Subcontractors or vendors prior to the effective date of the notice of termination), unless otherwise paid under Paragraph 14.2.1; and

(c) the reasonable costs of settlement, including accounting, legal,

clerical and all other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Work and for the termination and settlement of Subcontracts thereunder, together with reasonable storage, transportation and other costs incurred in connection with the protection or disposition of property allocatable to the Contract.

.3 Provided, however, that the Owner will not be liable for payments to subcontractors pursuant to Article 14.4.2.2.

14.4.3 In arriving at any amount due the Contractor pursuant to Paragraph 14.4, there shall be deducted the following:

.1 all unliquidated advance or other payments on account theretofore made to the Contractor applicable to the terminated portion of the Contract;

.2 any claim which the Owner may have against the Contractor;

.3 such amount as the Owner determines to be necessary to protect the Owner against loss because of outstanding or potential liens or claims; and

14.4.4 The total sum to be paid to the Contractor under Paragraph 14.4 shall not exceed the Contract Sum reduced by the amount of payments otherwise made or to be made for Work not terminated and as otherwise permitted by the Contract. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, as provided in Subparagraph 14.4.2, the fair value, as determined by the Owner, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Owner, or to a buyer pursuant to Clause 14.5.1.7.

14.4.5 If the Owner terminates the whole or any part of the Work pursuant to Paragraph 14.3, the Owner may procure, upon such terms and in such manner as the Owner and/or Construction Program Manager may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Owner for any excess costs for such similar supplies or services. The Contractor shall continue the performance of the Contract to the extent not terminated hereunder.

14.5 **GENERAL TERMINATION PROVISIONS**

14.5.1 After receipt of a notice of termination from the Owner, pursuant to Paragraph 14.2 or 14.3, and except as otherwise directed by the Owner, the Contractor shall:

.1 stop Work under the Contract on the date and to the extent specified in the notice of termination;

.2 place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;

.3 terminate all orders and subcontracts to the extent that they relate to the

performance of Work terminated by the notice of termination;

.4 at the option of the Owner, assign to the Owner in the manner, at the times and to the extent directed by the Owner, all of the rights in the contracts so terminated, in which case the Owner shall have the right to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

.5 settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts, with the approval or ratification of the Owner, to the extent required;

.6 transfer title and deliver to the entity or entities designated by the Owner, in the manner, at the times and to the extent directed by the Owner, to the extent specifically produced or specifically acquired by the Contractor for the performance of the terminated Work, the following:

(a) the fabricated or unfabricated parts, Work in process, partially completed supplies and equipment, materials, parts, tools, dies, jigs and other fixtures, completed Work, supplies and other material produced as part of, or acquired in connection with the performance of the Work terminated by the notice of termination;

(b) the completed or partially completed plans, drawings, information, releases, manuals and other property related to the Work and which, if the Contract had been completed, would have been required to be furnished to the Owner:

.7 complete performance of such part of the Work as shall not have been terminated by the notice of termination; and

.8 take such action as may be necessary, or as the Owner may direct, for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest.

14.5.2 The Contractor shall, from the effective date of termination until the expiration of five (5) years after final settlement under the Contract, preserve and make available to the Owner, at all reasonable times at the office of the Contractor, but without direct charge to the Owner, all the Contractor's books, records, documents and other evidence bearing on the costs and expenses of the Contractor under the Contract and relating to the Work terminated hereunder, or, to the extent approved by the Owner, photographs, micro-photographs or other authentic reproductions thereof.

14.6 If award was made as a result of application of local preference criteria as defined in Brevard County Resolution No. 2009-146, and the Contractor either falsified or misrepresented information that lead to the award by application of local preference criteria, or fails to maintain the requirements of the vendor category stated on the Local Vendor Affidavit of Eligibility through completion of the Agreement, the County may terminate the Agreement immediately. Such

termination is effective upon the party's receipt of the Notice of Termination. Termination for nonperformance and/or failure to maintain the requirements of a local vendor category upon which the Contractor was awarded a contract may be used for consideration for future awards.

ATTACHMENT 2
SCOPE OF SERVICES

1. Remove and dispose of damaged pier 5' x 150' and 16' x 16' platform, with balance of structure remaining.

2. Replace damaged sections matching existing sections per attached (Attachment 3).

3. Construct a 5' x 150' pier and 20' x 20' covered platform.

4. Picket railing must match existing railing.

5. Install new pilings per plans (Attachment 3).

6. Adhere to attached permit conditions (Attachment 4).

Attachment 3

CONSTRUCTION PLANS FOR
ROTARY PARK SUNTREE DOCK REPLACEMENT
BREVARD COUNTY

PREPARED FOR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY
RITA PRITCHETT, DISTRICT 1, CHAIR
JIM BARFIELD, DISTRICT 2
JOHN TOBIA, DISTRICT 3
CURT SMITH, DISTRICT 4
KRISTIN ISNARDI, DISTRICT 5, VICE CHAIR

GENERAL NOTES

1. THE CONTRACTOR MUST FAMILIARIZE HIMSELF WITH ALL THE NOTES AND REQUIREMENTS CONTAINED ON THESE PLANS AND THE CONTRACT DOCUMENTS. THE PLANS REPRESENT GENERALLY THE SCOPE AND NATURE OF THE WORK TO BE COMPLETED BUT DO NOT INDICATE, IN ALL DETAILS, THE MANNER OF CONSTRUCTION OR ALL OF THE ITEMS AND APPURTENANCES WHICH MAY BE REQUIRED. ANY SUCH ADDITIONAL ITEMS NECESSARY TO SATISFACTORILY COMPLETE THE PROJECT SHALL BE PROVIDED BY THE CONTRACTOR WITHOUT ADDITIONAL COST TO THE OWNER.
2. EXISTING UTILITIES ARE TO BE PROTECTED BY THE CONTRACTOR. ANY DAMAGE CAUSED BY THE CONSTRUCTION SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.
3. CONTRACTOR SHALL NOTIFY UTILITY COMPANIES A MINIMUM OF 48 HOURS IN ADVANCE OF ANY EXCAVATION ENSURING THAT ALL UTILITIES ARE IDENTIFIED. ANY DEVIATIONS FROM THESE PLANS TO AVOID CONFLICTS SHALL BE APPROVED BY THE ENGINEER PRIOR TO CONSTRUCTION.
4. CONTRACTOR SHALL VERIFY ALL EXISTING UTILITIES IN THE FIELD AND SHALL REPORT ANY DISCREPANCIES BETWEEN THE PLANS AND FIELD CONDITIONS TO THE ENGINEER. ANY DISCREPANCIES BETWEEN EXISTING CONDITIONS AND PLAN DIMENSIONS SHALL BE BROUGHT TO THE ENGINEER'S ATTENTION IMMEDIATELY.
5. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING THE LATEST VERSION AND APPROVED PLANS FROM THE DESIGN FIRM AND REVIEWING BOTH THE SPECIAL REQUIREMENTS THEREIN AND THE CONDITIONS AND CHANGES THEREOF PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
6. THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING DIMENSIONS AND SITE CONDITIONS AND SHALL NOTIFY THE ENGINEER IN THE EVENT OF ANY DISCREPANCIES OR CONFLICTS.
7. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST ADOPTED CODES AND ORDINANCES OF APPLICABLE JURISDICTIONS. THE CONTRACTOR MUST OBTAIN ALL REQUIRED PERMITS BEFORE THE COMMENCEMENT OF CONSTRUCTION.
8. THE CONTRACTOR MUST NOTIFY THE ENGINEER A MINIMUM OF 48 HOURS IN ADVANCE FOR CONSTRUCTION INSPECTIONS. THE CONTRACTOR SHALL NOT PROCEED WITH ALL REQUIRED INSPECTIONS HAVE BEEN COMPLETED. ALL FAILED OR UNSATISFACTORY WORK SHALL BE REMOVED AND REBUILT AT THE CONTRACTOR'S OWN EXPENSE.
9. ITEMS NOT SPECIFICALLY MENTIONED IN THE PLANS OR SPECIFICATIONS BUT NECESSARY FOR THE PROPER CONSTRUCTION OF THE DESIGN SHALL BE FURNISHED AND INSTALLED BY THE CONTRACTOR AS THOUGH SPECIFICALLY MENTIONED HEREIN.
10. ALL EXISTING STRUCTURES AND UTILITIES WITHIN THE CONSTRUCTION AREA SHALL BE PROTECTED FROM DAMAGE DURING CONSTRUCTION. ANY DAMAGE CAUSED BY THE CONTRACTOR SHALL BE REPAIRED OR REPLACED AT THE CONTRACTOR'S EXPENSE.
11. THE CONTRACTOR SHALL MAINTAIN ALL TRAFFIC CONTROL DEVICES AND SIGNS DURING CONSTRUCTION AS REQUIRED BY THE LOCAL AND STATE AUTHORITIES HAVING JURISDICTION.
12. ANY DAMAGE TO THE EXISTING IMPROVEMENTS, INCLUDING LANDSCAPING, CAUSED BY THE CONSTRUCTION SHALL BE RESTORED TO ITS ORIGINAL CONDITION OR BETTER.
13. CONTRACTOR IS RESPONSIBLE FOR OBTAINING AS-BUILT SURVEYS FROM A LICENSED SURVEYOR AND MAPPER IN THE STATE OF FLORIDA.

SHEET INDEX

C-1

CONSULTANTS:

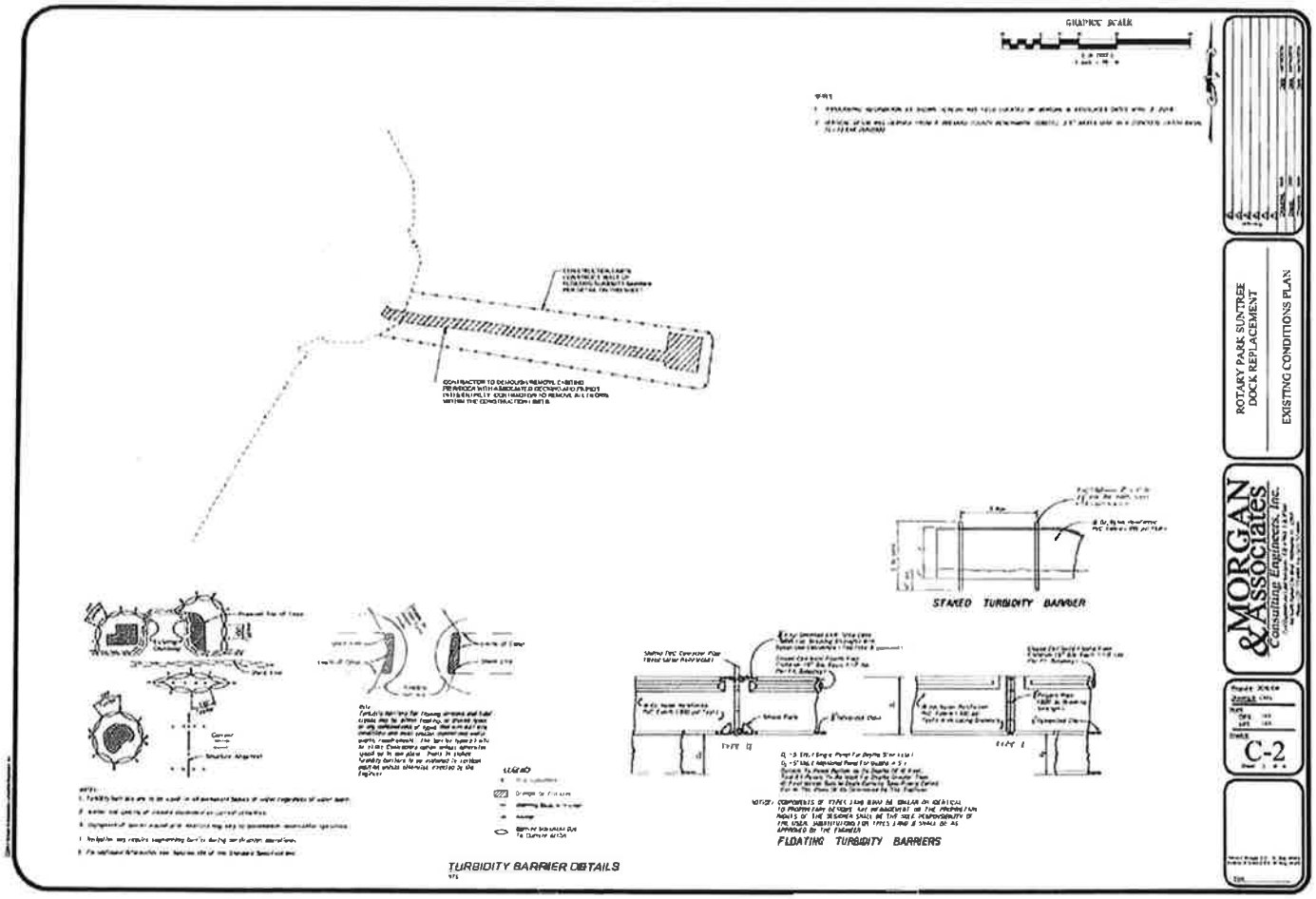
811 SUNSHINE 811
811 IT'S FREE! IT'S THE LAW!
CALL 811 OR 1-800-432-4770
BEFORE YOU DIG

ROTARY PARK SUNTREE DOCK REPLACEMENT
COVER

MORGAN & Associates
Consulting Engineers, Inc.

C-1

Attachment 3



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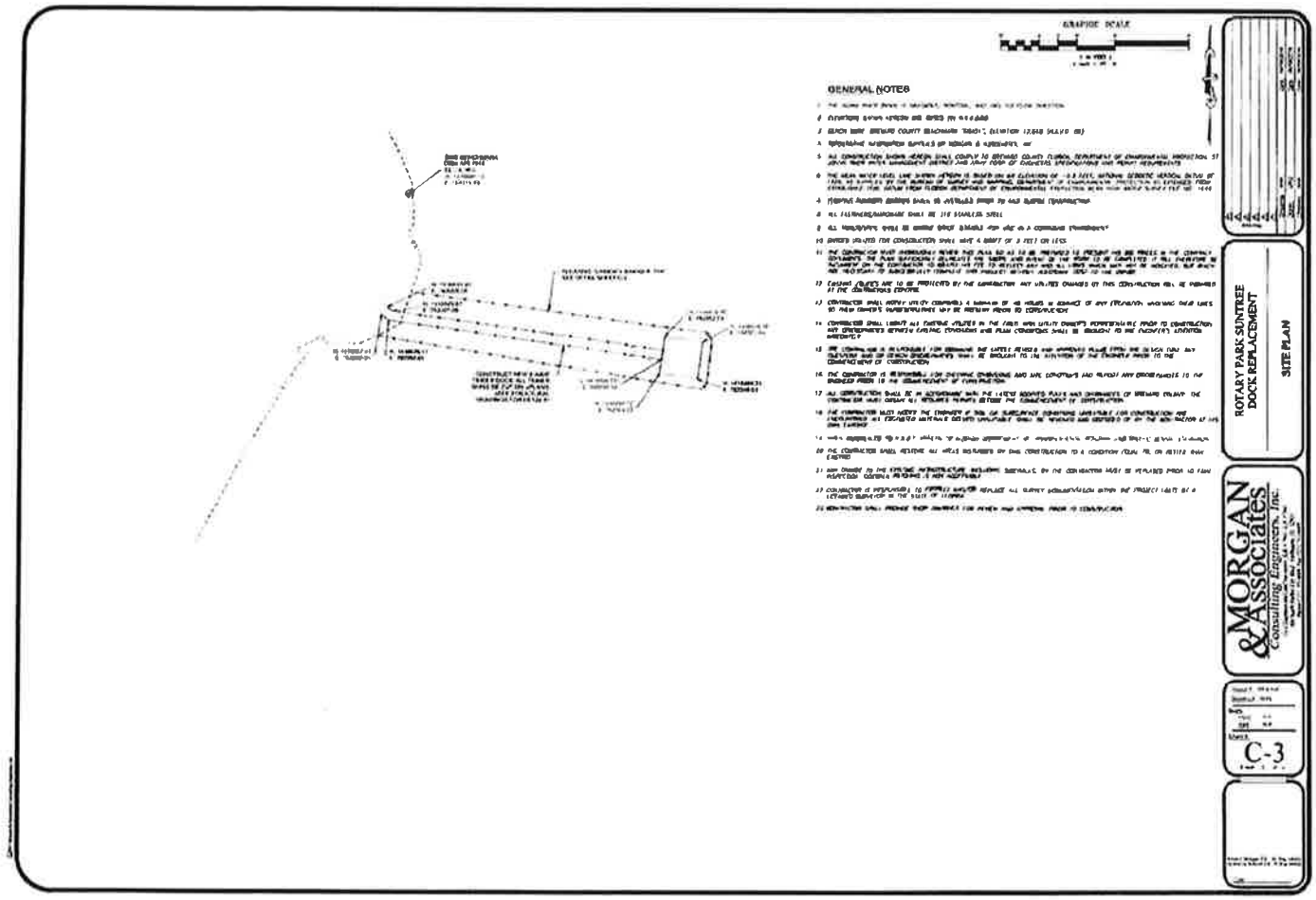

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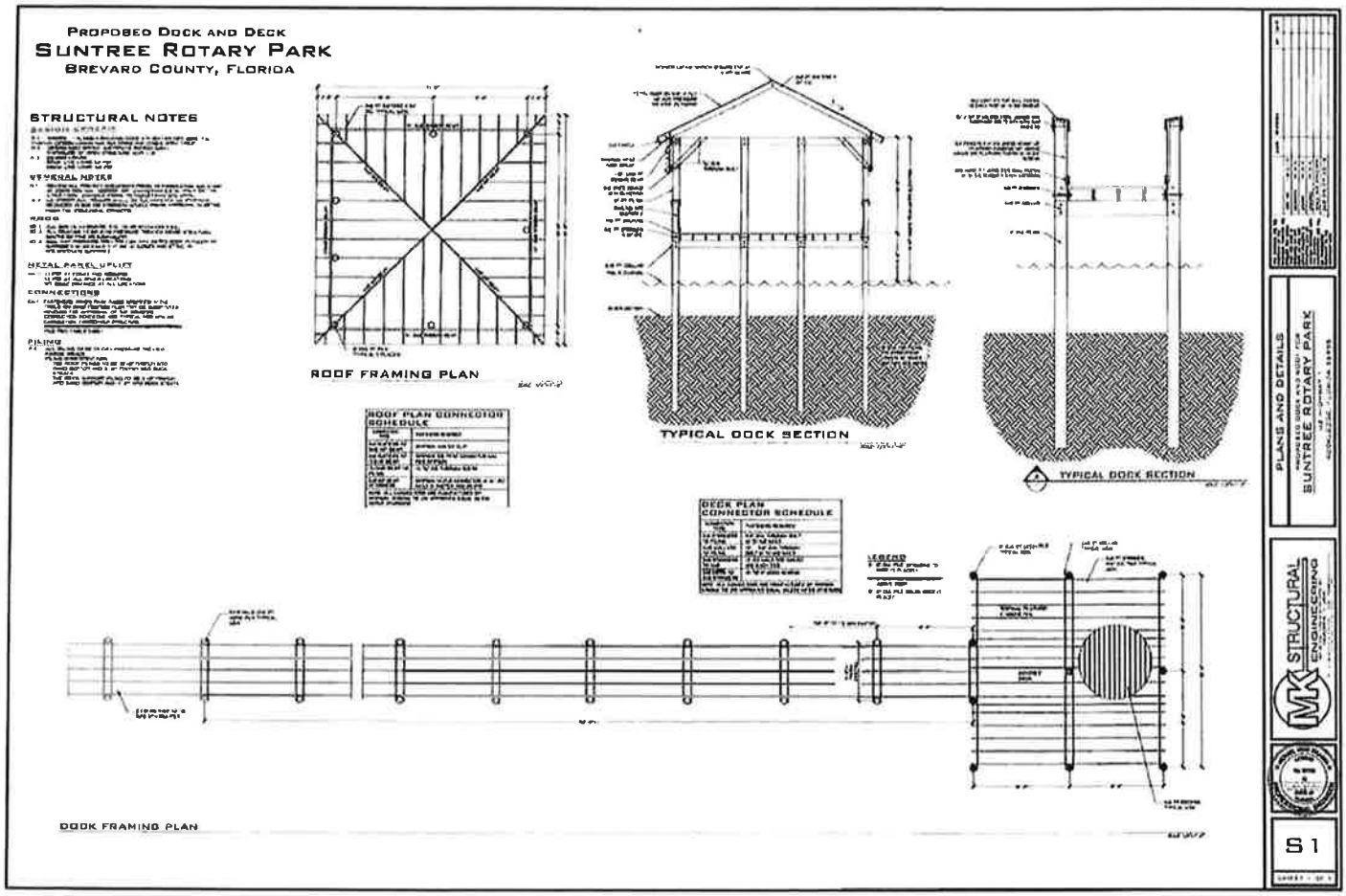


Attachment 4

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
400 HIGH POINT DRIVE, SUITE 600
COCOA, FLORIDA 32926

June 11, 2018

REPLY TO
ATTENTION OF

Regulatory Division
North Permits Branch
Cocoa Permits Section
SAJ-2018-01510(NW-3)

Brevard County
Parks & Recreation Department
ATTN: Hector Lopez Acevedo
2725 Judge Fran Jamieson Way, Bldg. B, Ste. 203
Viera, FL 32940

Dear Mr. Lopez Acevedo:

The U.S. Army Corps of Engineers (Corps) assigned your application for a Department of the Army permit, which the Corps received on May 22, 2018, the file number SAJ-2018-01510. A review of the information and drawings provided indicates that the proposed work would result in a government dock/pier replacement. The project is located at 6495 S. Hwy. 1, Viera FL, in Section12, Township 26 South, Range 36East, Viera, Brevard County, Florida.

Your project, as depicted on the enclosed drawings, is authorized by Nationwide Permit (NWP) Number 3. In addition, project specific conditions have been enclosed. This verification is valid until **March 18, 2022**. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have 12 months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. Please access the U.S. Army Corps of Engineers' (Corps) Jacksonville District's Regulatory Internet page to access Internet links to view the Final Nationwide Permits, Federal Register Vol. 82, dated January 6, 2017, specifically pages 1983 to 2008, and the table of Regional Conditions. The Internet page address is:

http://www.saj.usace.army.mil/Missions/Regulatory.aspx

Please be aware this Internet address is case sensitive and should be entered as it appears above. Once there you will need to click on "Source Book"; and, then click on "Nationwide Permits." These files contain the description of the Nationwide Permit authorization, the Nationwide Permit general conditions, and the regional conditions, which apply specifically to this verification for NWP 3. Enclosed is a list of the General

Attachment 4

Conditions, which apply to all Department of the Army authorizations. You must comply with all of the special and general conditions and any project specific condition of this authorization or you may be subject to enforcement action. In the event you have not completed construction of your project within the specified time limit, a separate application or re-verification may be required.

The following special conditions are included with this verification:

1. Reporting Address: All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: SAJ-RD-ENFORCEMENT@USACE.ARMY.MIL or U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P. O. Box 4970, Jacksonville, FL 32232. The Permittee shall reference this permit number SAJ-2018-01510, (NW-BAB) on all submittals.

2. Commencement Notification: Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

3. Completion Notification: Within 60 days of completion of the work authorized, the attached "Self-Certification Statement of Compliance" must be completed and submitted to the U.S. Army Corps of Engineers.

4. Project Design Criteria (PDCs) For In-Water Activities: The Permittee shall comply with National Maine Fisheries Service's "PDCs for In-Water Activities" dated November 20, 2017 (Attached).

5. Daylight Hours: All activities must completed during daylight hours

6. Manatee Conditions: The Permittee shall comply with the "Standard Manatee Conditions for In-Water Work – 2011" provided in attachments.

7. Sea Turtle and Smalltooth Sawfish Conditions: The Permittee shall comply with National Marine Fisheries Service's "Sea Turtle and Smalltooth Sawfish Construction Conditions" dated March 23, 2006, and provided in attachments.

8. Turbidity controls:

a. Shall be used throughout construction to control erosion and siltation if necessary and ensure that turbidity levels within the project area do not exceed background conditions.
b. Shall be made of material in which listed species cannot become entangled (i.e., reinforced impermeable polycarbonate vinyl fabric [PVC]), and shall be

monitored to ensure listed species are not entangled or trapped in the project area.

c. Shall be removed promptly when the work is complete and the water quality in the project area has returned to background conditions.

7. Regulatory Agency Changes: Should the Permittee propose or any other regulatory agency require changes to the work authorized or obligated by this permit, the Permittee is advised that a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Cocoa Permits Section.

8. Unreasonable Obstruction: The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

9. Cultural Resources/Historic Properties:

a. No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above

Attachment 4

Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8- hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

This letter of authorization does not give absolute Federal authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above referenced NWP, please contact me by telephone at 321-504-3771 ext. 26. Thank you for your cooperation with our permit program. The Corps Jacksonville District Regulatory Division is committed to improving service to our customers.

Sincerely,

Beverly Barta
Project Manager

Enclosures
CC:jon@AtlanticES.com
bcc:CESAJ-RD-PE

Attachment 4

GENERAL CONDITIONS
33 CFR PART 320-330

1. The time limit for completing the work authorized ends on **March 18, 2022.**

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort of if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Attachment 4

DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

PERMIT NUMBER: SAJ-2018-01510(NW-3)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, Post Office Box 4970, Jacksonville, FL 32232-0019 or electronic mail at saj-rd-enforcement@usace.army.mil.

_____
(TRANSFEREE-SIGNATURE)

_____
(DATE)

_____
(NAME-PRINTED)

_____

_____
(MAILING ADDRESS)

_____
(CITY, STATE, ZIP CODE)

_____
(SUBDIVISION)

_____ _____
(LOT) **(BLOCK)**

_____
(STREET ADDRESS)

Attachment 4

U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion (JaxBO) Project Design Criteria (PDCs) for In-Water Activities

November 20, 2017

1) **(AP.7.) Education and Observation**: The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at: http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html

2) **(AP.8.) Reporting** of interactions with protected species:
   a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to takereport.nmfsser@noaa.gov and SAJ-RD-Enforcement@usace.army.mil.
   b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email Sawfish@MyFWC.com
   c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email nmfs.ser.sturgeonnetwork@noaa.gov
   d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
   e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.

3) **(AP.9.) Vessel Traffic and Construction Equipment**: All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:

   a) *Construction Equipment*:
      i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
      ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
      iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of

construction equipment and shall not resume until the species has departed the area of its own volition.

iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.

b) *All Vessels*:
   i) Sea turtles: Maintain a minimum distance of 150 ft.
   ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
   iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (http://www.fisheries.noaa.gov/pr/shipstrike/).
   iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
   v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
   vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
   vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

4) **(AP.10.) Turbidity Control Measures during Construction:** Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:

   a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
   b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
   c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
   d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
   e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm

Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):

i) Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
ii) The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cableline). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.

5) **(AP.11.) Entanglement:** All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.

a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

PROPOSED DOCK AND DECK

SUNTREE ROTARY PARK

BREVARD COUNTY, FLORIDA

STRUCTURAL NOTES

DESIGN CRITERIA

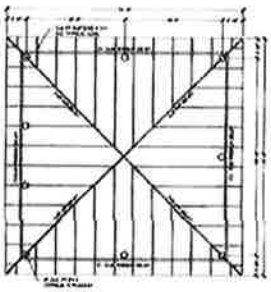
GENERAL NOTES

WOOD

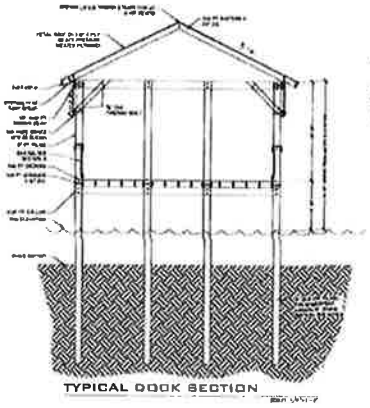
METAL PANEL UPLIFT

CONNECTIONS

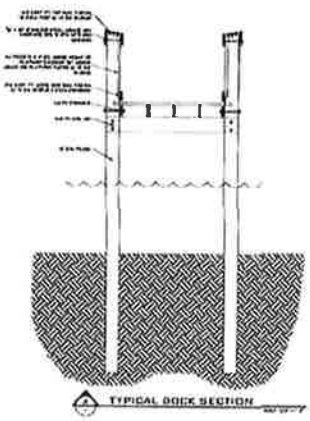
PILING



ROOF FRAMING PLAN



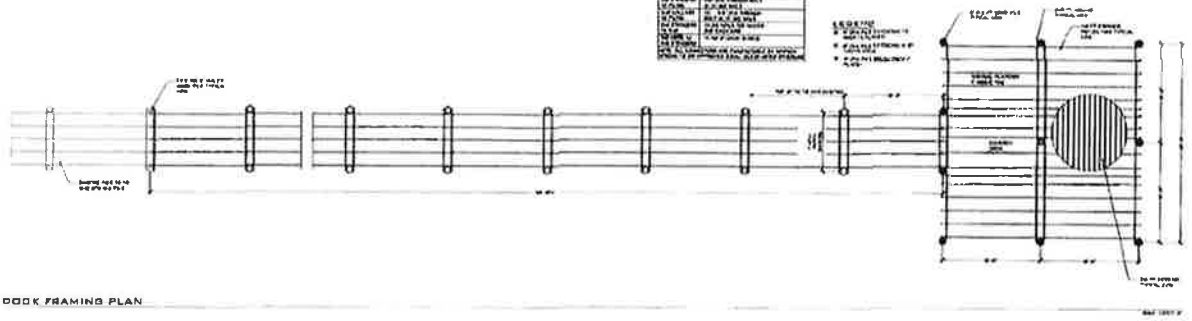
TYPICAL DOCK SECTION



TYPICAL DOCK SECTION

ROOF PLAN CONNECTOR SCHEDULE	

DECK PLAN CONNECTOR SCHEDULE	



DOCK FRAMING PLAN

PLANS AND DETAILS

SUNTREE ROTARY PARK

Attachment 4

MK STRUCTURAL ENGINEERING

S1

Attachment A

CONSTRUCTION PLANS FOR
ROTARY PARK SUNTREE DOCK REPLACEMENT
BREVARD COUNTY

PREPARED FOR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY
RITA PRITCHETT, DISTRICT 1, CHAIR
JIM BARFIELD, DISTRICT 2
JOHN TOBIA, DISTRICT 3
CURT SMITH, DISTRICT 4
KRISTINE ISNARDI, DISTRICT 5, VICE CHAIR

GENERAL NOTES

1. THE CONTRACTOR MUST THOROUGHLY REVIEW THIS PLAN SO AS TO BE FAMILIAR TO PRESENT HIS BID PRICE. IF THE CONTRACT DOCUMENTS, THE PLAN SUFFICIENTLY DELINEATES THE SCOPE AND EXTENT OF THE WORK TO BE COMPLETED, A BID THEREFORE BE PREPARED BY THE CONTRACTOR TO ADJUST HIS FEE TO REFLECT ANY AND ALL ITEMS WHICH MAY HAVE BE OMITTED, BUT WHICH ARE NECESSARY TO SUCCESSFULLY COMPLETE THIS PROJECT WITHOUT ADDITIONAL COST TO THE OWNER.
2. EXISTING UTILITIES ARE TO BE PROTECTED BY THE CONTRACTOR AND DAMAGE BY THIS CONSTRUCTION MUST BE REPAIRED AT THE CONTRACTORS EXPENSE.
3. CONSTRUCTION SHALL NOTIFY UTILITY COMPANIES A MINIMUM OF 48 HOURS IN ADVANCE OF ANY EXCAVATION INVOLVING THEIR LINES SO THEIR OWNERS REPRESENTATIVES MAY BE PRESENT PRIOR TO CONSTRUCTION.
4. CONTRACTOR SHALL LOCATE ALL EXISTING UTILITIES IN THE FIELD WITH UTILITY OWNER'S REPRESENTATIVE PRIOR TO CONSTRUCTION AND INCONSISTENCIES BETWEEN EXISTING CONDITIONS AND PLAN DIMENSIONS SHALL BE BROUGHT TO THE ENGINEER'S ATTENTION IMMEDIATELY.
5. THE CONTRACTOR IS RESPONSIBLE FOR FURNISHING THE LATEST REVISED AND APPROVED PLANS FROM THE DESIGN ENGINEER AND FOR DETAILS, DISCREPANCIES, OMISSIONS OR DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
6. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING INSPECTIONS AND APPROVAL CONCERNING FIELD REVISIONS AND COMPLIANCE TO THE ENGINEER PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
7. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST ADOPTED RULES AND ORDINANCES OF THE HARD COUNTY. THE CONTRACTOR MUST OBTAIN ALL REQUIRED PERMITS BEFORE THE COMMENCEMENT OF CONSTRUCTION.
8. THE CONTRACTOR MUST VERIFY THE ENGINEER'S SIGN OR SUPERVISED, CONDITIONS UNSUITABLE FOR CONSTRUCTION AND UNDERSIGNED. ALL ENCOUNTERED MATERIALS DETAILED UNSUITABLE SHALL BE REMOVED AND DISPOSED OF BY THE CONTRACTOR AT HIS OWN EXPENSE.
9. WORK IN CONFLICT WITH THE CONSTRUCTION OF THE DESIGN SUCH AS EXISTING UNDERGROUND, PAVEMENT, DRAINAGE STRUCTURES, AND EARTH EXCAVATION, MUST BE BE REMOVED BY THE CONTRACTOR. THE DISPOSAL OF SUCH ITEMS MUST BE DONE IN A LEGAL AND PROPER MANNER AWAY FROM THE JOB SITE.
10. WHEN REFERENCE TO F.D.O.T. INDICATE TO FLORIDA DEPARTMENT OF TRANSPORTATION ROADWAY AND TRAFFIC DESIGN STANDARDS.
11. THE CONTRACTOR SHALL RESTORE ALL AREAS DISTURBED BY THIS CONSTRUCTION TO A CONDITION EQUAL TO, OR BETTER THAN EXISTING.
12. ANY DAMAGE TO THE EXISTING INFRASTRUCTURE, INCLUDING SIDEWALKS, DRIVEWAYS, AND ROAD RIGHT OF WAY CONTRACTOR MUST BE REPLACED PRIOR TO FINAL INSPECTION. INCLUDING BUT NOT ACCEPTABLE.
13. CONTRACTOR IS RESPONSIBLE TO PROTECT AND/OR REPAIR ANY DISTURBANCE MADE DURING CONSTRUCTION. SURVEY MONUMENTATION WITHIN THE PROJECT SHALL BE A LICENSED SURVEYOR IN THE STATE OF FLORIDA.

SHEET INDEX

C-1	COVER SHEET
C-2	GENERAL NOTES & LOCATION PLAN
C-3	SITE PLAN
C-4	STRUCTURAL PLANS & DETAILS

REVISIONS

CONSULTANTS:

STRUCTURAL ENGINEER
MORGAN & ASSOCIATES CONSULTING ENGINEERS, INC
645 S. HARBOR CITY BLVD
MELBOURNE, FLORIDA 32901
PHONE: (321) 751-6004
FAX: (321) 751-6003
CONTACT: (NAME) MARK MORGAN, PE
CONTACT: (NAME) CHAD BROWN, P.E.

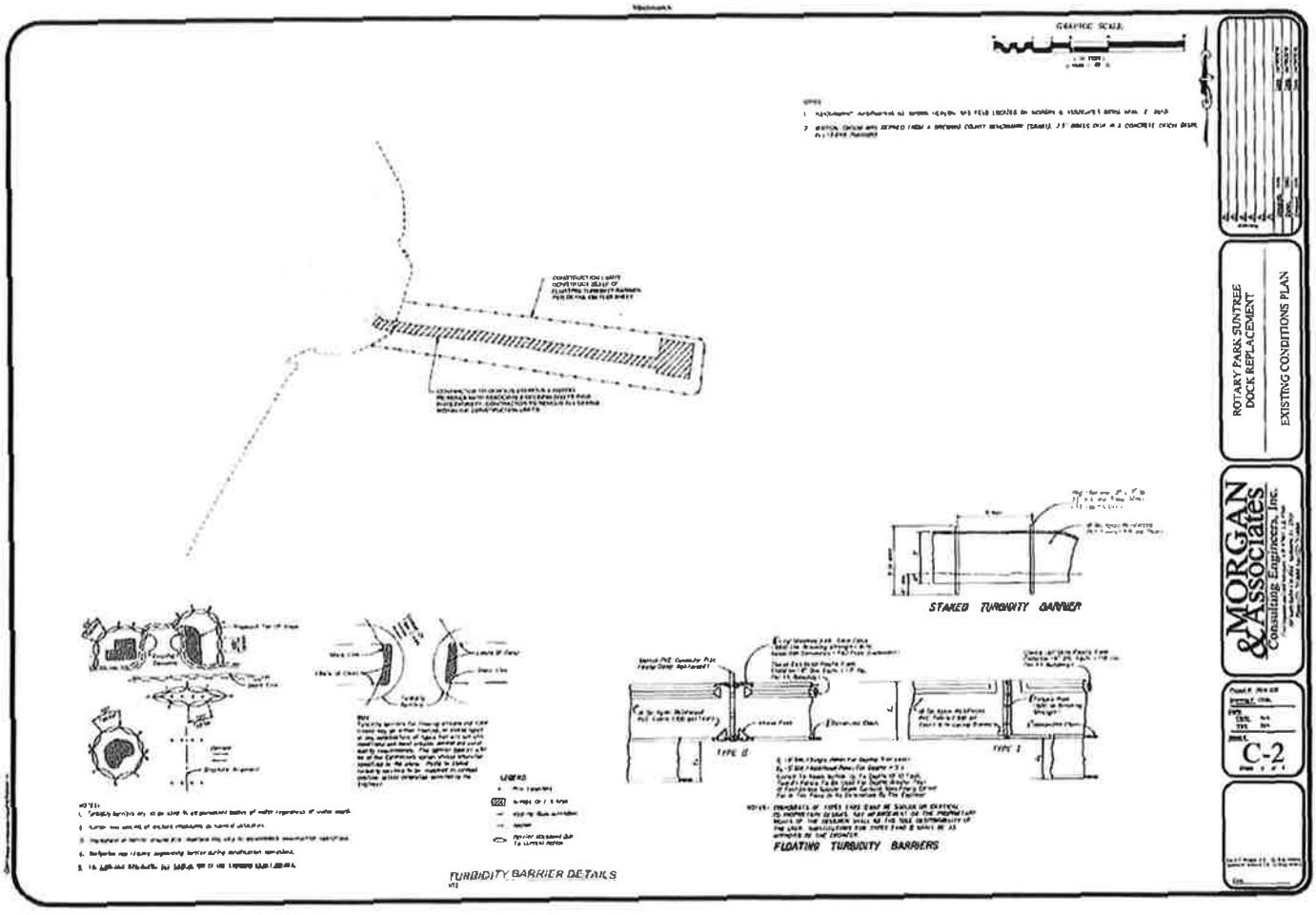
SURVEYOR, LANDSCAPE
JOE STRUCTURAL ENGINEERS
567 W. DAY GALE ROAD, SUITE 201
MELBOURNE, FLORIDA 32935
PHONE: (321) 409-0811
CONTACT: MICHAEL MALLARD, P.E.

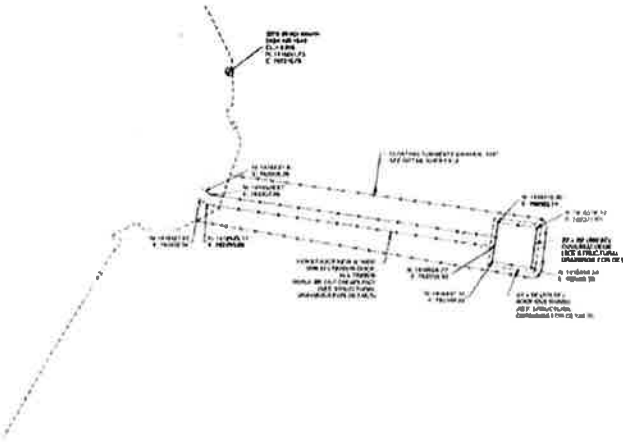
811 KNOW WHAT'S BELOW. ALWAYS CALL 811 BEFORE YOU DIG!

ROTARY PARK SUNTREE DOCK REPLACEMENT
COVER

MORGAN & Associates
Consulting Engineers, Inc.

Drawn By: JJH
Checked By: MM
Date: 2019-08
Project No.: 19-04
Sheet No.: C-1
Sheet 1 of 4


GRAPHIC SCALE
CONSTRUCTION LIMITS
STAKED TURBIDITY BARRIER
TYPE II
TYPE I
FLOATING TURBIDITY BARRIERS
TURBIDITY BARRIER DETAILS
ROTARY PARK-SUNTREE
DOCK REPLACEMENT
EXISTING CONDITIONS PLAN
MORGAN & Associates
Consulting Engineers, Inc.
C-2



GRAPHIC SCALE

GENERAL NOTES

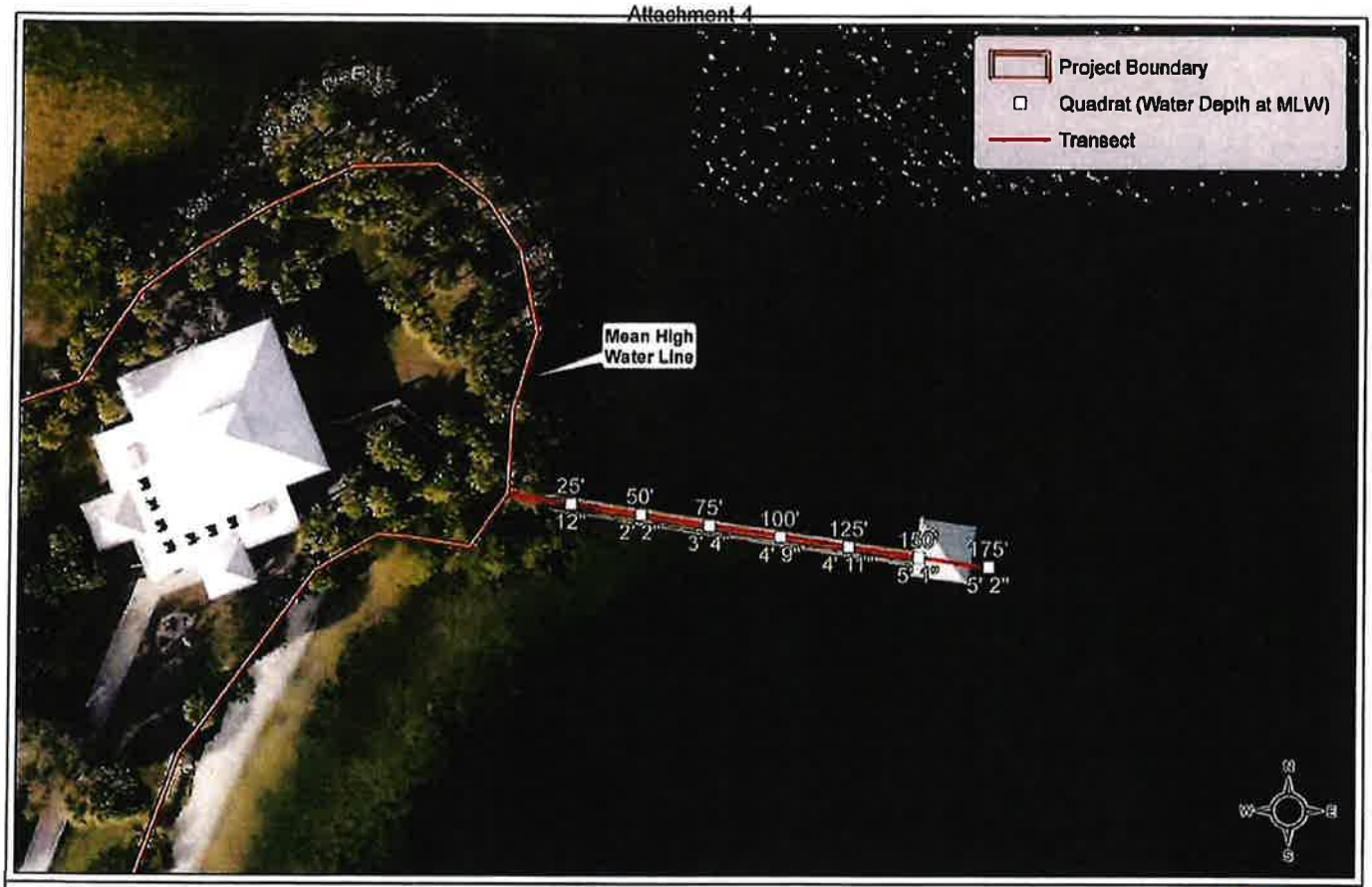
ROTARY PARK SUNTREE DOCK REPLACEMENT

SITE PLAN

MORGAN & Associates Consulting Engineers, Inc.

C-3

Attachment 4



Project: Rotary Park at Suntree Boulevard

Figure 1: SAV Survey Map

0 20 40 80 Feet

2017 Aerial, Brevard County, Florida

ATLANTIC ENVIRONMENTAL SOLUTIONS
ENVIRONMENTAL PERMITTING & MITIGATION

AES Proj #: 18141

Attachment 4

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK
2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.

b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.

d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.

e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com

f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.

Attachment 4

CAUTION: MANATEE HABITAT

All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:

Wildlife Alert:

1-888-404-FWCC(3922)

cell *FWC or #FWC

Attachment 4

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701

SEA TURTLE AND SMALLTOOTH SAWFISH CONSTRUCTION CONDITIONS

The permittee shall comply with the following protected species construction conditions:

a. The permittee shall instruct all personnel associated with the project of the potential presence of these species and the need to avoid collisions with sea turtles and smalltooth sawfish. All construction personnel are responsible for observing water-related activities for the presence of these species.

b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing sea turtles or smalltooth sawfish, which are protected under the Endangered Species Act of 1973.

c. Siltation barriers shall be made of material in which a sea turtle or smalltooth sawfish cannot become entangled, be properly secured, and be regularly monitored to avoid protected species entrapment. Barriers may not block sea turtle or smalltooth sawfish entry to or exit from designated critical habitat without prior agreement from the National Marine Fisheries Service's Protected Resources Division, St. Petersburg, Florida.

d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water depths where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will preferentially follow deep-water routes (e.g., marked channels) whenever possible.

e. If a sea turtle or smalltooth sawfish is seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure its protection. These precautions shall include cessation of operation of any moving equipment closer than 50 feet of a sea turtle or smalltooth sawfish. Operation of any mechanical construction equipment shall cease immediately if a sea turtle or smalltooth sawfish is seen within a 50-ft radius of the equipment. Activities may not resume until the protected species has departed the project area of its own volition.

f. Any collision with and/or injury to a sea turtle or smalltooth sawfish shall be reported immediately to the National Marine Fisheries Service's Protected Resources Division (727-824-5312) and the local authorized sea turtle stranding/rescue organization.

g. Any special construction conditions, required of your specific project, outside these general conditions, if applicable, will be addressed in the primary consultation.

Revised: March 23, 2006
O:\forms\Sea Turtle and Smalltooth Sawfish Construction Conditions.doc

II.D.3

CONSTRUCTION MANAGER CONTRACT

Parks and Recreation Department

THIS CONTRACT made the ____ day of _____ 2019 between the **BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereinafter referred to as "County"), and **HEARD CONSTRUCTION, INC., 95 E. Hall Road, Merritt Island, FL 32953** (hereinafter referred to as "Contractor"), a company licensed to do business in the State of Florida.

WHEREAS, the Board of County Commissioners approved the repair of damages to Parks and Recreation facilities at the April 24, 2018 Board meeting; and

WHEREAS, such repairs include work to be done at the Intracoastal Waterway Park Dock and Walkway Repair (hereinafter referred to as the "Project").

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein, the parties hereby agree, as follows:

ARTICLE 1

THE CONSTRUCTION TEAM AND EXTENT OF CONTRACT

The Contractor accepts the relationship of trust and confidence established between him and the County by this Contract. The Contractor covenants with the County to furnish the best skill and judgment and to cooperate with BRPH PLLC (hereinafter referred to as the "Architect/Engineer") in furthering the interests of the County. The Contractor agrees to furnish efficient business administration and superintendence and use its best efforts to complete the Project in the best and soundest way, and in the most expeditious and economical manner consistent with the interest of the County.

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

The specific representatives of the Construction Team are shown in **Attachment "A"** attached.

1.2 Scope of Work – A general description of the Work/Project to be built/constructed/installed under this Contract is shown in **Attachment "B"** and may include projects that may be funded or submitted for reimbursement through the Federal Emergency Management Agency (one to two million dollars).

1.3 Definitions:

Project - The Project is the total work to be performed under this Contract. The Project consists of planning, design review, permitting, construction (which includes all labor, equipment, material and supervision) and code inspection necessary to build/construct/install and complete the Scope of Work identified in **Attachment "B"** (Scope of Work).

County - Brevard County Board of County Commissioners, (through the Brevard County Parks and Recreation Department), 2725 Judge Fran Jamieson Way, Building B, 2nd Floor, Viera, Florida 32940, (321) 633-2046; facsimile (321) 633-2198. For the purposes of this Contract, the County may also include the County Manager or the Project Director, or their designee(s), with regard to the performance of designated functions and duties specified for each under the terms and provisions of this Contract.

Contract Documents - Consist of this Contract with attachments, including, but not limited to, Scope of Work, the drawings, the specifications, the Guaranteed Maximum Price, any Conditions of the Contract between the County and the Contractor (General, Special, Supplementary and other conditions), permit conditions, if any, grant specifications, any addenda to the foregoing listed documents and all change orders, amendments or modifications as provided in Article 10, whether or not any of the foregoing listed documents have been attached hereto.

Permitting Authority - All applicable Federal, State, County and local agencies responsible for permitting and code inspections on projects administered by the County.

Contractor/Construction Manager – Heard Construction, Inc., 95 E. Hall Road, Merritt Island, FL 32953.

Architect/Engineer – BRPH PLLC, 5700 North Harbor City Blvd, Suite 400, Melbourne, FL 32940.

Project Director - The person designated by the County to provide direct interface with the Contractor with respect to the County's responsibilities. Mike Butcher is the designated Project Director.

County's Representatives - The Project Director and his/her supervisors and/or designees.

Estimate - The Contractor's latest estimate of probable Project construction cost.

Guaranteed Maximum Price (GMP) - The Guaranteed Maximum Price for the construction of the Project, which shall be subject to adjustments only as provided herein. Guaranteed Maximum Price includes Cost of the Work and Contractor's fee for Construction Phase services. The Guaranteed Maximum Price does include the cost for County direct purchases; however, all County direct purchases will be deducted in one deductive change order in accordance with **Attachment "C"** (Direct Purchasing Procedure) at the end of the Project.

Site – Intracoastal Waterway Park, Hwy 520 Causeway at the Hubert Humphrey Bridge, Merritt Island, FL 32953.

Substantial Completion - The point in the construction where all essential elements of the Project are sufficiently complete in conformance with the Contract, that the County has both

the occupancy of the Project, as evidenced by a Certificate of Occupancy issued by the governmental authority with jurisdiction, and the beneficial use of the Project for its intended purpose where only minor "punch list" items, or a written list of unfinished Work and defective work, are required for final completion. Substantial Completion shall not be deemed to have occurred where 1) latent defects are revealed subsequent to use and occupation of the Project by the County; or 2) the scope of substantial defects in workmanship or materials are not readily observable or discoverable when use and occupancy of the Project commenced; or 3) there is a failure to meet grant specifications, if any.

1.4 Extent of Contract - This Contract for Construction Management Services – to provide labor, materials, and equipment for dock and walkway repair at Intracoastal Waterway Park between the County and the Contractor – supersedes any prior negotiations, representations or agreements, whether oral or written. The drawings, specifications and other descriptive documents defining the work to be included under this construction contract are identified in **Attachment "D"**. The Contractor shall: (i) obtain from the County three sets of signed, sealed and dated drawings, specifications and other documents upon which the Guaranteed Maximum Price is based; (ii) acknowledge on the face of each document of each set that it is the set upon which it based its Guaranteed Maximum Price; and shall send one set of the documents to the Project Director along with its Guaranteed Maximum Price proposal, while keeping one set for itself and returning one set to the Architect/Engineer.

This Contract shall not be superseded by any provisions of the documents for construction and may be amended only by written instrument signed by both the County and Contractor.

ARTICLE 2

CONSTRUCTION MANAGER'S RESPONSIBILITIES

Contractor shall perform all services described in this Article. The services to be provided under Subsection 2.1 constitute the Pre-Construction Phase services. The services to be provided under Subsections 2.2 thru 2.9 constitute the Construction Phase services. The parties acknowledge the Construction Phase shall commence before the Pre-Construction Phase is completed, and to a certain extent, when possible, both phases shall proceed concurrently.

2.1 PRE-CONSTRUCTION PHASE

2.1.1 Preliminary Evaluation - Contractor shall provide a preliminary evaluation of County's program and Project budget requirements, each in terms of the other.

2.1.2 Consultation - Contractor will provide Design Disciplines Construction Documents Plans and Specifications review at all design milestones and a final constructability review. The review at each milestone will identify areas of omission, overlap, and identify documents to be modified in order to clarify the construction details. The review will also include the coordination and interface of the Contract document's General Conditions, Special Conditions, trade contractor bid packages, and site utilization planning during construction. Reviews shall be completed and comments provided within five business days. As part of the design review, Contractor will provide Value Engineering and construction alternatives for consideration by the County and Architect/Engineer, identifying options for systems and components that are cost effective, more easily maintained, and otherwise more efficient.

Contractor has scheduled and attended, and shall continue to jointly schedule and attend, **weekly** progress meetings (*or as otherwise mutually agreed to by the Project Director or Contractor's Project Manager*) with County and Architect/Engineer. Contractor has and will continue to consult with County and Architect/Engineer regarding site use and improvements, and the selection of materials, building systems and equipment. Contractor has provided and will continue to provide recommendations on construction feasibility; actions designated to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including, but not limited to, estimates of alternative designs or materials, preliminary budgets and possible economies.

2.1.3 Preliminary Project Schedule - Contractor has prepared a Preliminary Project Schedule, a copy of which is attached as **Attachment "E"**. Contractor shall coordinate and integrate the Preliminary Project Schedule with the services and activities of the County, Architect/Engineer, and Contractor. The Contractor shall provide current scheduling information and provide direction and coordination regarding milestones, beginning and finishing dates, responsibilities for performance and the relationships of the Contractor's work to the work of its subcontractors and suppliers to enable them to perform their respective tasks so that the development of construction progresses in a smooth, workmanlike, and efficient manner in conformance with the overall Total Project Schedule. The schedule shall include all phases of construction work, material supplies, long lead procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance of testing requirements. The Contractor shall advise the County, its representatives, and the Architect/Engineer of their required participation in any meeting or inspection giving each at least one week notice in writing unless such notice is made impossible by conditions beyond the Contractor's control. The Contractor shall hold jobsite meetings at least once each week with the Construction Team, and at least once each week, or more frequently as required by work progress, with the subcontractors, the Architect/Engineer's field representative(s), and the County to review progress, discuss problems and solutions, and coordinate future work with all subcontractors.

2.1.4 Subcontractors and Suppliers - Contractor shall continue to develop subcontractor interest in the Project and shall furnish to the County and Architect/Engineer for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Project. County will promptly reply in writing to Contractor if the County has an objection to any such subcontractor or supplier. The receipt of such list shall not require the County to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the rights of the County to later object to or reject any proposed subcontractor or supplier.

2.1.5 Long Lead and County Direct Procurement - The Contractor shall review the design for the purpose of identifying long lead and the County direct procurement items (machinery, equipment, materials and supplies). When each item is identified the Contractor shall notify the subcontractors and the County of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected subcontracts. As soon as the Architect/Engineer has completed drawings and technical specifications and the Contractor has obtained permitting approval, the Contractor shall prepare Invitation for Bids. The Contractor shall keep informed of the progress of the respective subcontractors and/or suppliers, manufacturing or fabricating such items and notify the County and Architect/Engineer of any problems or prospective delay in delivery.

2.1.6 Extent of Responsibility - The recommendations and advice of Contractor concerning design alternatives shall be subject to the review and approval of the County and it's professional consultants. It is not Contractor's responsibility to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, building codes, rules and/or regulations. However, if Contractor recognizes that portions of the Drawings and Specifications are at variance therewith, Contractor shall promptly notify County and Architect/Engineer in writing.

2.1.7 Equal Employment Opportunity and Affirmative Action - Contractor shall comply with all applicable laws and regulations, as well as the special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs.

2.1.8 Separate Contracts Planning - The Contractor shall review the design with the Architect/Engineer and make recommendations to the County and to the Architect/Engineer with respect to dividing the work in such manner as will permit the Contractor to take bids and award separate construction subcontracts on the current schedule while the design is being completed. The Contractor shall take into consideration such factors as natural and practical lines of severability, sequencing, effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and costs by overlapping design and construction that are authorized by the County.

2.2 CONSTRUCTION PHASE

2.2.1 Interfacing

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

(2) Subcontractor Interfacing - The Contractor shall be the single point of interface with all Subcontractors, the County, and all of its agents and representatives, including the Architect/Engineer. The Contractor shall negotiate all change orders, field orders and request for proposals, with all affected Subcontractors and shall review the costs of those proposals and advise the County and Architect/Engineer of their validity and reasonableness, acting in the County's best interest prior to requesting approval of each change order from the County. Before any work is begun on any change order, an executed Authorization to Initiate Work form from the County must be issued. However, when health and safety are threatened, the Contractor shall act immediately to remove the threat to health and safety. The Contractor shall also carefully review all shop drawings and then forward the same to the Architect/Engineer for review and actions. The Architect/Engineer will transmit them back to the Contractor who will then issue the shop drawings to the affected Subcontractor for fabrication or revision. The Contractor shall maintain a suspense control system to promote expeditious handling. The Contractor shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of the Contractor by the Subcontractors and shall maintain a suspense

control system to promote timely response. The Contractor shall advise the Project Director and Architect/Engineer when timely response is not occurring on any of the above.

2.2.2 Solicitation of Bids

(1) Without assuming responsibilities of the Architect/Engineer, the Contractor shall prepare Invitations for Bids (or Request For Proposals, when applicable) for all procurements of long lead times, materials and services for Subcontractor contracts and for site utilities.

(2) As part of such preparation, the Contractor shall review the specifications and drawings prepared by the Architect/Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Contractor shall be brought to the attention of the Project Director and Architect/Engineer in written form.

(3) For each separate subcontractor or construction trade contract used in this Project, the Contractor shall, unless waived by the County, conduct a pre-bid conference with prospective bidders, the Architect/Engineer and Project Director. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Contractor shall transmit these to the Architect/Engineer and, upon receiving clarification or correction in writing, shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.

(4) In accordance with Subsection 2.4.2 herein, the Contractor shall open and review all bids and enter into contract(s) with those low bidders determined to be most qualified by the Contractor. The Contractor shall make every effort to follow the County's Pre-Qualification Ordinance 98-37 (**Attachment "F"**) for applicable subcontract trades.

2.2.3 Bonds - For those projects where the cost will exceed one hundred thousand dollars, in accordance with the provisions of Section 255.05, Florida Statutes, the Contractor shall provide to the County, on forms furnished by the County (**Attachment "G" and "H"**), certified copies of the recorded one-hundred percent Public Construction Performance Bond and one-hundred percent Public Construction Payment Bond each in an amount not less than the total construction cost Guaranteed Maximum Price as defined in Article 9 herein and inclusive of the construction fee. *Payment and Performance Bonds shall be recorded (by the Contractor) in the official record of the County in which the Project is located.* The Contractor must provide a copy of the bond(s) to all subcontractors and notify them of deadlines to make claims under the bonds.

2.2.4 Quality Control - The Contractor shall develop and maintain a program, acceptable to the County and Architect/Engineer, to assure quality control of the construction (*this may include personnel if approved by the County*). The Contractor shall have a qualified and competent superintendent to supervise the work of all Subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and shall continue to exert influence and control over each Subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the Project. Should disagreement occur between the Contractor and Architect/Engineer over

acceptability of work and conformance with the requirements of the specifications and plans, the County shall be the final judge of performance and acceptability.

2.3 Guaranteed Maximum Price and Contract Time

2.3.1 Contractor acknowledges and agrees the Drawings and Specifications are sufficiently complete for Contractor to propose a Guaranteed Maximum Price, which is the total not to exceed the sum of the Contractor's Fee and the Cost of the Project. Accordingly, the Guaranteed Maximum Price is hereby established at **Two Hundred Forty-Nine Thousand, Six Hundred Sixty-One Dollars and Forty-Three Cents**. *The final approved Guaranteed Maximum Price spread sheet is hereby attached as* **Attachment "I"** *to and shall become a part of this Contract between the County and Contractor.*

2.3.2 The Cost of the Project shall include Contractor's contingency, a sum agreed to by all parties for the Contractor's use to cover costs arising from unforeseen conditions in the project. Contractor's contingency is hereby established as a separate line item of **Zero Dollars** within the Guaranteed Maximum Price.

2.3.3 Basis of Guaranteed Maximum Price
The Guaranteed Maximum Price, herein established is based upon the following:

.1 The list of the Drawings and Specifications, including all addenda thereto, and the Conditions of the Contract, which are identified in the Attachments to this Contract.

.2 The list of clarifications and assumptions made by Contractor in the preparation of its Guaranteed Maximum Price proposal to supplement the information contained in the Drawings and Specifications.

.3 The Preliminary Construction Schedule (**Attachment "E"**). As reflected in said Schedule, Contractor is to achieve Substantial Completion of the Work within **Ninety Days** from issuance of Notice to Proceed. Final Completion shall be achieved within an additional **Fifteen Days**.

2.3.4 Included within the Guaranteed Maximum Price is the Contractor's fee. The Contractor's Fee is hereby established as **Twenty-Two Thousand Four Hundred Forty-Nine Dollars and Fifty-Five Cents** for services provided in this Contract. The sum of the Cost of the Project and the Contractor's Fee shall not exceed the Guaranteed Maximum Price. The Contractor's Fee shall constitute Contractor's total compensation for profit. All costs in excess of the final approved Guaranteed Maximum Price (as reduced by County direct purchases, if any, in accordance with **Attachment "C"**) are the responsibility of the Contractor. Any savings between the Guaranteed Maximum Price (as reduced by County direct purchases) and the sum of the actual cost of the Project plus the Contractor's fee will be returned to the County.

2.3.5 Prior to issuance of the Construction Phase Notice to Proceed, Contractor shall not incur any costs to be reimbursed as part of the Cost of the Project, except as County may specifically authorize in writing.

2.3.6 The Guaranteed Maximum Price and date of Substantial Completion shall be subject to additions and deductions by a Change Order as provided in the Contract Documents.

2.3.7 The Guaranteed Maximum Price shall include in the Cost of the Project only those taxes which are enacted and in effect at the time the Guaranteed Maximum Price was determined.

2.4 Construction Phase

2.4.1 General

2.4.1.1 The Construction Phase shall commence on the date identified in the Notice to Proceed to be issued by the County.

2.4.1.2 The Contractor shall cause all Work required by the Contract Documents to be properly completed in accordance with the terms of the Contract Documents and within the Contract Time.

2.4.1.3 Contractor's Staff - The Contractor shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Contractor and to coordinate, inspect and provide general direction of the work and progress of the subcontractors, and the Contractor shall provide no less than those personnel during the respective phases of construction. The Contractor shall not change any of those designated persons unless mutually agreed to by the County and Contractor. In such case, the County shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.

2.4.1.3.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor.

2.4.1.3.2 The Contractor's superintendent shall be in attendance at the Project site not less than eight hours per day, five days per week, and any time work is being performed at the jobsite, unless the job is closed down due to a general strike or conditions beyond the control of the Contractor or until completion or termination of the Contract. It is understood that such superintendent shall be acceptable to the County and the Architect/Engineer, and shall be the one who will continue in that capacity for the duration of the Project, unless the County otherwise agrees. The superintendent shall not be employed on any other project for or by Contractor or any other entity during the course of the work.

2.4.1.4 Lines of Authority - The Contractor shall establish and maintain lines of authority for its personnel, and shall provide this description/definition to the County and all other affected parties such as the code inspectors of the permitting authorities, the subcontractors, the Architect/Engineer and the County's representatives, to provide general direction of the work and progress of the various phases and subcontractors. The County and the Architect/Engineer may attend meetings between the Contractor and subcontractors, however, such attendance shall not diminish either the authority or responsibility of the Contractor to administer the subcontractor.

2.4.2 Administration

2.4.2.1 Those portions of the Project that Contractor does not customarily perform with Contractor's own personnel shall be performed under subcontracts or by other appropriate written contracts with Contractor. Contractor shall obtain bids from subcontractors and from suppliers of materials or equipment fabricated to a special design for the Project from the list previously reviewed and, after analyzing such

bids, shall deliver such bids to the County and Architect/Engineer for review and comment. Based upon that review and comment, Contractor shall then determine, subject to the reasonable objection of the Architect/Engineer or County, which bids will be accepted. Contractor shall not be required to contract with anyone to whom Contractor has reasonable objection. Notwithstanding anything herein to the contrary, Contractor covenants and agrees that it shall competitively bid all subcontracts. Further, with respect to all such subcontracts, Contractor covenants and agrees that it shall select and contract with the lowest, responsive and qualified bidder, unless otherwise consented to in writing by the County.

2.4.2.2 Subcontracts and contracts with suppliers furnishing materials or equipment fabricated to a special design shall conform with payment provisions and shall not be awarded on the basis of cost plus a fee without prior written consent of County.

2.4.2.3 Contractor shall schedule and conduct weekly meetings, at a minimum, at which County, Architect/Engineer, Contractor and appropriate Subcontractors can discuss the status of the Project. Contractor shall prepare and promptly distribute meeting minutes within two business days after any such meeting is held.

2.4.2.4 Promptly after County's issuance of the Notice to Proceed, Contractor shall prepare a more detailed Project Schedule, based upon the preliminary Project Construction Schedule attached as **Attachment "E"**, including the County's occupancy requirements. Contractor will submit monthly updates to the Schedule until the Project is completed.

2.4.2.5 Contractor shall provide Monthly Written Reports to the County on the progress of the entire Project. Contractor shall maintain a daily log containing a record of weather, subcontractors working on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the County may require. The log shall be available to the County at all times.

2.5 Professional Services - Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering, unless such services are specifically required by the Contract Documents for a portion of the Project or the Contractor has specifically agreed in writing to provide such services. In such event, Contractor shall cause such services to be performed by appropriately licensed professionals.

2.6 Unsafe Materials - If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered but not created or brought on the site, Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the County and Architect/Engineer in writing. County shall be responsible for obtaining the services of a licensed laboratory to verify the presence or absence of the material or substance reported by Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

In accordance with Section 255.40, Florida Statutes, the County will require that the Contractor certify, upon Project Completion, that to the best of its knowledge and ability no asbestos-containing materials and/or supplies have been purchased and/or installed on this Project.

2.7 Weather Protection - The Contractor shall be responsible to ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. All costs associated with this shall be the responsibility of the Contractor.

2.8 Job Site Requirements

(1) The Contractor shall provide for each of the following activities as a part of the Contractor's Construction Phase services:

a. Maintain a log of daily activities, including, but not limited to, manpower records, weather, delays, and major decisions, and require the same of subcontractors.
b. Maintain a directory of companies on the Project with names, addresses, telephone numbers, emergency telephone numbers and fax numbers of key personnel.
c. Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.
d. Provide labor relations management for a harmonious, productive Project.
e. Provide a safety program for the Project to meet safety standards, including, but not limited to, Occupational Safety and Health Administration requirements.
f. Monitor for subcontractor compliance without relieving them of responsibilities to perform work in accordance with the best acceptable practice.
g. Provide a quality control program.
h. Miscellaneous office supplies that support the construction efforts which are consumed by its own forces.

2.9 Job Site Administration - The Contractor shall provide as part of the Contractor's Construction Phase services, administrative functions during construction, including but not limited to, the following:

(1) Job Meetings - Hold weekly progress and coordination meetings to provide for an easy flowing Project. Implement procedures and assure timely submittals, expedite processing approvals and return of shop drawings, samples, etc. Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing, labor allocations, etc. Review and coordinate each Subcontractor's work. Review and implement revisions to the Schedule. Monitor and promote safety requirements.

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

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

(2) Shop Drawing Submittals/Approvals - Check Shop Drawings and implement procedures for submittal and transmittal to the Architect/Engineer of such drawings for action, and closely monitor their submittal and approval process. Provide copy of all correspondence to the County. Contractor shall provide one approved Submittal or Shop Drawing to the County.

(3) Material and Equipment Expediting - Closely monitor material and equipment deliveries; implement inspection and follow-up procedures on commitments of all Suppliers and Subcontractors.

(4) Payments to Subcontractor - Develop and implement a procedure for review, processing, and payment of applications by Subcontractors for progress and final payments.

(5) Document Interpretation - Refer all questions for interpretation of the documents prepared by the Architect/Engineer to the Architect/Engineer.

(6) Reports and Project Site Documents - Record the progress of the Project. Submit written progress reports to the County and the Architect/Engineer including information on the Subcontractor's work, and the percentage of completion. Keep a daily log available to the County, the Architect/Engineer and the Permitting Authority inspectors.

(7) Substantial Completion - The Contractor shall secure the Certificate of Occupancy and notify the County and Architect/Engineer, in writing, that the Project will be ready for inspection to determine if it is substantially complete and ready for inspection on or after a specific date, which date shall be stated in the notice. The notice shall be given at least seven days in advance of said date. Inspection and testing shall take place at time(s) mutually agreeable to the Contractor, Architect/Engineer and County. The inspection will be conducted jointly between the Architect/Engineer, County and Contractor's representative. The inspection shall determine if substantial completion has been accomplished and the Architect/Engineer shall produce a Certificate of Substantial Completion (**Attachment "J"**) and a written list of unfinished Work and defective work, commonly referred to as a "Punch List", which must be finished and corrected to obtain final completion.

At the County's option a specific area or segment of the Project may be inspected and/or determined substantially complete.

(8) Final Completion - The Contractor shall notify the Architect/Engineer and County, in writing that the Project will be ready for final inspection on or after a specific date, which date shall be stated in the notice. This notice shall be given at least seven days in advance. That inspection and any necessary testing shall be conducted in the same manner as the inspection for Substantial Completion. When the Project is finally and totally complete, including the elimination of all defects, a Certificate of Final Completion (**Attachment "K"**) will be issued by the Architect/Engineer and the Project shall be submitted to the County for final acceptance.

The County and Architect/Engineer shall conduct the inspections. The County may elect to have other persons of its choosing also participate in the inspections. If one or more re- inspections are required, the Contractor shall reimburse the County for all costs of re-inspection or, at the County's option, the costs may be deducted from

payments due to the Contractor. The Total Project Schedule shall include these notices and inspections as activities.

The Contractor shall secure and transmit to the Architect/Engineer all required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings, and maintenance books as part of final completion (in triplicate) unless stated otherwise in the Project specifications.

(9) Start-Up - With the County's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the subcontractors.

(10) Record Drawings - The Contractor shall monitor the progress of Work on marked-up field prints which, at Substantial Completion, shall be submitted to the Architect/Engineer who will prepare the final record drawings.

(11) Administrative Records - The Contractor will maintain at the job site on a current basis, files and records such as, but not limited to the following:

Contracts and Purchase Orders
Shop Drawing Submittal/Approval
Logs Equipment
Purchase/Delivery Logs
Contract Drawings and Specifications with
Addenda Cost Proposal Requests
Meeting
Minutes Lab
Test Reports
Contract
Changes
Material Purchase Delivery Logs
"As-Built" Marked
Prints Monthly
Progress Reports
Correspondence
Files Transmittal
Records Inspection
Reports
Punch Lists

The Project records shall be available at all times to the County and Architect/Engineer for reference or review.

(12) County Occupancy:
The Contractor shall provide services during the Construction Phase which will provide a smooth and successful County occupancy of the Project. The Contractor shall provide consultation and project management to facilitate County occupancy and provide transitional services to get the work, as completed by the contractors "on line" in such conditions as will satisfy County operational requirements.

The Contractor shall conduct the Contractor's preliminary punch list inspection and coordinate the completion of all punch list work to be done with County occupancy

requirements in mind.

The Contractor shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey these to the County in such a manner as to promote their usability (in triplicate). The Contractor shall provide operational training, in equipment use, for building operators to a maximum of eight hours.

The Contractor shall secure required guarantees and warranties, assembled and organized (in a binder) and deliver same, in triplicate, to the County in a manner that will facilitate their maximum enforcement and assure their meaningful implementation.

The Contractor shall continuously review "As-Built" Drawings and mark-up progress prints to provide as much accuracy as possible.

(13) Warranty - Where any work is performed by the Contractor's own forces or by Subcontractors under contract with the Contractor, the Contractor shall warrant that all materials and equipment included in such Work will be new except where indicated otherwise in Contract Documents, and that such Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Drawings and Specifications. With respect to the same Work, the Contractor further agrees to correct all work found by the County to be defective in material or workmanship or not in conformance with the Drawings and Specifications for a period of one year from the Date of Final Completion or as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Contractor shall collect and deliver to the County any specific written warranties given by others as required by the Contract Documents. **Also, the Contractor shall conduct, jointly with the County and the Architect/Engineer, a warranty inspection nine months after the date of County Occupancy. This warranty inspection will be scheduled by a representative of the County**.

ARTICLE 3

COUNTY'S RESPONSIBILITIES

3.1 County's Information - The County shall provide full information regarding County's requirements for the Project.

3.2 County's Representative/Project Director - The County shall designate a representative who shall be fully acquainted with the Project and shall define the lines of County authority to approve Project Construction Budgets, and changes in Project. The County's representative shall render decisions promptly and furnish information expeditiously.

3.3 Architect and Engineer's Contract - The County shall retain an Architect/Engineer for design and to prepare construction documents for the Project. The Architect/Engineer's services, duties and responsibilities are described in the Contract between the County and the Architect/Engineer, a copy of which will be furnished to the Contractor upon request.

3.4 Approvals and Easements - The County shall pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.5 Legal Services - The County shall furnish such legal services as may be necessary for providing the items set forth in Article 3 and such auditing services as the County may require.

3.6 Drawings and Specifications - The County will provide to the Contractor a reproducible set of all drawings and specifications reasonably necessary and ready for printing.

3.7 Cost of Surveys & Reports - The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the County's expense, and the Contractor shall be entitled to rely upon the accuracy and completeness thereof.

3.8 Project Fault or Defects - If the County becomes aware of any fault or defect in the Project or non- conformance with the drawings and specifications, the County shall give prompt written notice thereof to the Contractor and Architect/Engineer.

3.9 Funding - The County shall furnish, in accordance with the established schedule, reasonable evidence satisfactory to the Contractor that sufficient funds will be available and committed for the cost of each part of the Project.

3.10 Lines of Communication - The County and Architect/Engineer shall communicate with the Subcontractors or Suppliers only through the Contractor while such method of communication is effective in maintaining Project schedules and quality.

3.11 Lines of Authority - The County shall establish and maintain lines of authority for County's personnel and shall provide this definition to the Contractor and all other affected parties.

3.12 Permitting & Code Inspections - The County recognizes and coordinates with the Permitting Authority and expects the Contractor to do the same.

ARTICLE 4

PERMITTING AND INSPECTION

4.1 Permits, Fees and Notices - Unless otherwise provided in the Contract Documents, the Contractor shall secure and the County shall pay for any Brevard County building permit or other County permits and governmental fees and licenses necessary for proper execution of the Contract and which are legally required. Any other entity/jurisdiction permits (i.e.: City of Titusville, City of Melbourne, etc.) shall be included in the Guaranteed Maximum Price and secured and paid for by the Contractor. County Impact and Solid Waste fees will also be paid by the County. Copies of all permits shall be submitted to the County.

4.2 The Contractor shall comply with, and give notices required by, any law, ordinance, rule or regulation and lawful orders of public authorities bearing on performance of the work required for the Project.

4.3 It is not the County's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, and such variance was not discoverable during the Contractor's

review of these documents for the purpose of determining the Guaranteed Maximum Price, the Contractor shall promptly notify the Architect/Engineer and County, in writing, and necessary changes shall be accomplished by appropriate modification.

4.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect/Engineer and County, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs and liability.

ARTICLE 5

SUBCONTRACTS

5.1 Definition - A subcontractor is a person or organization who has a direct contract with the Contractor to perform any of the work. Nothing contained in the Contract Documents shall create any contractual relation between the County or Architect/Engineer and any Subcontractor.

5.2 Bids/Proposals - The Contractor shall request and make every attempt to receive, at a minimum, three bids/proposals from subcontractors and suppliers and will award those contracts to the most qualified and responsive low bidder after the Contractor and County have reviewed each bid/proposal and agree that the subcontractor is qualified to perform the work.

5.3 Required Subcontractor and Subcontract Conditions.

5.3.1 Subcontractual Relations - By an appropriate written contract, the Contractor shall require each Subcontractor to the extent of the work to be performed by the subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor by this Contract, assumes toward the County and the Architect/Engineer. Said contracts shall preserve and protect the rights of the County and Architect/Engineer under the Contract Documents with respect to the work to be performed by the subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with its subcontractor's subcontractor.

The Contractor shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Subsection 5.3 and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents. Each subcontractor shall similarly make copies of such Documents available to its sub-subcontractor.

(1) Subcontractors shall submit a complete pre-qualification form demonstrating their work experience, financial condition, and adherence to schedule. The subcontractors financial condition must demonstrate that adequate fixed and liquid assets and equipment are available to properly perform the subcontract.

(2) Workforce - The subcontractor must agree to perform no less than fifty percent of the Project construction work utilizing its own forces.

(3) All subcontracts shall provide:

a. LIMITATION OF REMEDY - NO DAMAGES FOR DELAY
That the subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the County or Architect/Engineer or attributable to the County or Architect/Engineer, and including claims based on breach of contract or negligence, shall be an extension of its contract time.

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

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

b. Each subcontract shall require that any claims by a subcontractor for delays or additional cost must be submitted to Contractor within the time and in the manner in which the Contractor must submit such claims to the County, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

5.4 Responsibilities for Acts and Omissions - The Contractor shall be responsible to the County for the acts and omissions of its employees and agents and its subcontractors, agents and employees, and all other persons performing any of the work or supplying materials under this contract to the Contractor.

ARTICLE 6

SCHEDULE, TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

6.1 At the time a Guaranteed Maximum Price is established, as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date and a County Occupancy Date for completion of the Project in accordance with the master Project schedule, shall also be established by the Construction Team. The Contractor agrees to complete the construction in accordance with the agreed upon Substantial Completion Date, Final Completion Date and County Occupancy Date. The Contractor acknowledges that failure to complete the Project within the construction time set forth in the approved schedule will result in substantial damages to the County.

It is specifically agreed by and between the parties that the County may deduct a sum in the amount scheduled below from the amount of compensation to be paid to the Contractor, Sundays and Holidays included, that the Project remains uncompleted. This amount as scheduled and agreed upon as a proper measure of liquidated damages, which the County will sustain per day by failure of the Contractor to complete the Project by the time stipulated in this Contract, is not to be construed in any sense as a penalty provision nor as the County's sole remedy.

Project Substantial Completion	$500 per day

Project Final Completion	$250 per day

Liquidated Damages will be assessed for each day beyond the contracted project Substantial Completion date, until actual project Substantial Completion is achieved. From the date of Substantial Completion, the Contractor shall be granted thirty days for completion of punch list items, associated inspections and approvals, and submission and approval of required closeout documentation, at which time Final Completion shall be obtained. Final Completion liquidated damages will be assessed for each day beyond the thirty-day period from actual Substantial Completion.

6.2 The date of County Occupancy shall occur as described in Subsections 2.9(7) and 1.3, hereinabove. Warranties called for by this Contract or by the Drawings and Specifications shall commence on the Date of Final Completion of the Project unless specified otherwise in the Project Specifications.

ARTICLE 7

GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION

7.1 The Contractor shall establish and submit in writing a Guaranteed Maximum Price to the County for its approval, guaranteeing the maximum price to the County, for the construction cost of the Project or designated part thereof, based on a review of the contract drawings and specifications. Such Guaranteed Maximum Price will be subject to increase or deduction for changes in the Project as provided in Article 10 and for County direct purchases, if any, in accordance with **Attachment "C"**. All costs in excess of the final approved Guaranteed Maximum Price, as adjusted up or down in accordance with the terms of this Contract, are the responsibility of the Contractor. Any savings between the Guaranteed Maximum Price, as adjusted, and the sum of the actual cost of the Project plus the Contractor's fees, will be returned to the County. The Guaranteed Maximum Price includes all taxes in the Cost of the Project which were legally enacted and in effect at the time the Guaranteed Maximum Price was established.

7.2 County-Direct Purchases - In the event the County opts to make County Direct Purchases, as outlined in **Attachment "C"**, the Guaranteed Maximum Price shall be reduced by the cost of the materials plus applicable sales tax so that all sales tax savings accrue to the benefit of the Project contingency. The Contractor shall diligently process all County Direct Purchase invoices for the project in order for the County to benefit from applicable vendor discounts. The Contractor shall be required to submit all invoices to County in sufficient amount of time in order for the project to benefit from the vendor discount. All costs associated with missed discounts by the Contractor shall be deducted from the Contractor's contract via deductive change order at Project completion. The County reserves the right to waive the Contractor's responsibility for missing discounts.

7.3 At the time of execution of this Contract, the Contractor shall verify the time schedule for activities and work which is adopted by the Construction Team and used to determine the Contractor's cost of work. Surplus funds from bids received below the applicable line items, including line items within the General Conditions, in the Guaranteed Maximum Price will be set aside for contingency. Construction contingency funds will be used for the purpose of defraying the expenses due to unforeseen circumstances relating to construction. The Contractor shall be required to furnish documentation evidencing expenditures charged to this contingency prior to the release of funds by the County. Documentation for use of the Contingency shall be determined by the Construction Team. The Architect/Engineer and

County shall verify and approve the actual costs.

If bids are received above the applicable line item in the Guaranteed Maximum Price the deficiency will be taken from the contingency via an approved Authorization to Initiate Work/Guaranteed Maximum Price Realignment form; however, such events shall not be cause to increase the Guaranteed Maximum Price. If bids are not received for a portion of the work at or below the applicable line item amount in the Guaranteed Maximum Price, the Contractor reserves the right to perform that portion of the work or negotiate for its performance for the specified line item lump sum amount or less.

ARTICLE 8

CONSTRUCTION MANAGER'S FEE

8.1 In consideration of the performance of the Contract, the County agrees to pay the Contractor, as compensation for its services, fees as set forth in Subsections 8.1.2 and 8.1.3. subject to the retainage provisions specified in the Contract.

8.1.2 Construction Phase Fee - Prior to commencement of the Construction Phase, the County will direct the Contractor in writing to proceed into the Construction Phase. The County retains the right to review the need and effectiveness of any employee or employees assigned by the Contractor, should the Project Director question the need for the employee or employees. A percentage of the agreed upon Construction Phase Fee shall be paid monthly based on percentage of work completed, less retainage, in accordance with Subsection 12.1 below. The Contractor's first monthly Certificate for Payment shall be submitted no earlier than thirty days following the issuance of the Notice to Proceed, and the final monthly payment shall be paid only when construction of the Project is finally completed, all original, final release of liens are received, closeout documentation has been submitted and occupancy of the Project accepted by the County. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the County.

(1) Adjustments in Fee - For changes in the Project as provided in Article 10, the Construction Phase fee shall be adjusted as follows:

(a) The Contractor shall be paid an additional fee subject to negotiation if the Contractor is placed in charge of reconstruction of an insured or uninsured loss excluding any condition that may have been caused from negligent acts by the Contractor, subcontractors or others for whose acts the Contractor is responsible.

(2) Costs and Expenses Included in Contractor's Construction Phase Fee - The following are included in the Contractor's fee for services during the Construction Phase and are included in the Guaranteed Maximum Price (See **Attachment "L"** for Allowable Costs, Overhead associated with the Contractor's Construction Phase Fee referenced in Article 8):

(a) Corporate costs including expenses and overhead and profit-related to this Project by the Contractor's principal and branch offices.
(b) Costs of all data processing, accounting, purchasing and associated staff which is performed at the home office.

(c) General operating expenses incurred in the management and supervision of the project, except as expressly included in Article 9.
(d) Salaries or other compensation of the Contractor's employees at Contractor's principal and branch offices.
(e) Those services set forth in Subsections 2.1, 2.2, 2.3 and 2.4; except as expressly included in Article 9.
(f) Relocation expenses for Contractor's personnel.
(g) Costs of all project estimating, safety, scheduling and accounting staff.

8.1.3 The Contractor will establish and submit in writing to the County for its approval a Guaranteed Maximum Price, guaranteeing the maximum price to the County, for the construction cost of the Project or designated part thereof, based on a review of the contract drawings and specifications. Such Guaranteed Maximum Price will be subject to modification for changes in the Project as provide in Article 10. However, the actual price paid for the Work by the County shall be (1) the Cost of the Project as defined in Article 9, plus the Contractor's fees, or (2) the Guaranteed Maximum Price, whichever is less, when the Work is complete. All costs in excess of the final approved Guaranteed Maximum Price are the responsibility of the Contractor.

ARTICLE 9

COST OF THE PROJECT

9.1 Definition - The term "Cost of the Project" shall mean costs reasonably and necessarily incurred in the Project during the Construction Phase for construction services and paid by the Contractor which are included in the Construction Phase Fee, less County direct purchases made in accordance with **Attachment "C"** upon completion of the Project. Such costs shall include the items set forth below in this Article, and shall also include, but are not limited to, those set forth in **Attachment "M"** - "Allowable General Conditions".

The County agrees to pay the Contractor for the Cost of the Project subject to the limits set forth in Subsections 9.2 and 9.3 plus the Contractor's fees stipulated in Article 8, provided the total does not to exceed the Guaranteed Maximum Price.

9.2 Direct Cost Items (See **Attachment "M"** - "Allowable General Conditions")

(1) Labor wages paid for the on-site Project superintendent directly responsible for the operation and supervision of the project, clerical and quality control personnel (as opposed to wages paid to management or supervisory personnel who are not part of the on-site project management) in the direct employ of the Contractor in the performance of the Contractor's work under this Contract, acceptable salary or wage schedules and such fringe benefits, if any, as may be payable with respect thereto (labor burden not to exceed forty percent for payroll and fifteen percent for per diem).

(2) Payments due to subcontractors from the Contractor or made by the Contractor to subcontractors for their work performed pursuant to contract under this Contract.

(3) Cost of the premiums for insurance above and beyond the minimum required by Brevard County (One million dollars) and cost of premiums for bonds which the Contractor is required to procure by this Contract specifically for the construction of this Project.

(4) Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by a governmental authority, and for which the Contractor is liable. No costs shall be paid by the County to the Contractor for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the Plans and Specifications or to correct any deficiency or damage caused by negligent acts by the Contractor.

(5) If approved by the County, the Contractor, when qualified, may self- perform all or a portion of the work for any item listed on the estimate or Guaranteed Maximum Price breakdown where it is deemed advantageous due to schedule or economic benefit for the direct cost of the work.

(6) Legal costs reasonably and properly resulting from prosecution of the Project for the County, including handling claims for changes by subcontractors and vendors, subject to the following limitations:

(a) The County approved incurring such costs in advance, which approval shall not be unreasonably denied; and
(b) The legal costs were not incurred as result of the Contractor's own negligence or default.

(7) Costs for such temporary facilities during construction, as approved by the County, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software.

9.3 Allowances

Within the Guaranteed Maximum Price, there may be specific items which the Contractor and County have agreed to include as allowances in the estimates until such time as the cost and schedule impact of these items can be more specifically ascertained. At the time that the Costs of the Work of allowance items becomes known (either through a subcontract price or by virtue of either (A) scope of work and cost agreed to by Contractor and County or (B) an actual buyout of the item), the Guaranteed Maximum Price and Scheduled Completion Date will be adjusted (either increased or decreased) by the actual Costs of the Work and schedule impact of the item. With respect to increases and decreases to the amount of an allowance item, Contractor shall be entitled to the Contractor's fee, subject to the limits set forth in Article 8, on the adjusted amount of such allowance, and the Guaranteed Maximum Price shall be adjusted by reason thereof, by Change Order. Allowances must be agreed to by both parties. Allowances included within the Guaranteed Maximum Price constitute approval of said allowances at the time the Guaranteed Maximum Price is approved.

9.4 Public Records Law and Audit Requirements

In the performance of this Contract, the Contractor shall keep books, records and accounts of all activities related to the Contract in compliance with generally accepted accounting procedures and in compliance with the Public Records Laws of the State of Florida (Including, but not limited to Chapter 119, Florida Statutes).

All records or documents created by Contractor or provided to Contractor by the County in connection with the activities or services provided by Contractor under the terms of this Contract, are public records and Contractor agrees to comply with any request for such public records or documents made in accordance with Chapter 119, Florida Statutes.

Records, documents, books and accounts ordinarily and necessarily required for the performance of this Contract shall be kept, maintained and open for inspection by the County, County's representative, and members of the public during regular business hours.

The Contractor shall provide the public with access to public records on the same terms and conditions that the public agency provides the records and at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law (see also County Administrative Order, AO-47).

The Contractor shall also ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by Contractor in the United States or any other country.

The Contractor shall meet all requirements for retaining public records and shall transfer, at no cost, to the County all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County.

Failure to comply with the provisions of Subsection 9.4, shall result in the County taking enforcement action against the Contractor including the cost to the County for gaining the Contractor's compliance which will include, but are not limited to, the gross hourly rate of the County's employee(s) contacts to the Contractor to obtain compliance with this section, litigation filing fees and attorney's fees.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (321) 633-2046 OR 2725 JUDGE FRAN JAMIESON WAY, BLDG. B, SUITE 203, VIERA, FL 32940

ARTICLE 10

CHANGES IN THE PROJECT

10.1 Change Orders - The County, without invalidating this Contract, may order changes in the Project within the general scope of this Contract consisting of additions, deletions or other revisions which may cause an increase or decrease in the Guaranteed Maximum Price and/or the Construction Completion Date. All changes in

the Project Guaranteed Maximum Price or Construction Completion Date not covered by an authorized contingency, as described in Subsection 7.3, must be authorized by a written Change Order or Construction Change Directive, and signed by the County, Architect/Engineer and Contractor before the change is implemented. It shall be the County's discretion as to whether each change order requires the Architect/Engineer's signature. **Maximum allowable mark-up on any change order is five percent Profit, five percent Overhead, and a two percent Bond.**

10.1.1 A Construction Change Directive is a change directive signed by the Project Director and the County Manager directing an addition, deletion, or revision in the scope of work and/or schedule. The Construction Change Directive is necessary when no Contract exists among the Architect/Engineer of record, the County, and the Contractor on the dollar amount of a necessary change in the scope of work and/or an extension of time to the construction contract. The Construction Change Directive is used (1) when an unsafe, hazardous or other similar condition exists, (2) when failure to achieve prompt resolution of the change will result in a demobilization of the Contractor, its subcontractors and/or agents, (3) when failure to achieve prompt resolution will result in additional cost, and/or a significant delay in completing the project. A Construction Change Directive does not change the contract price or the contract time, but is evidence that the parties expect that the change will be incorporated in a subsequently issued Change Order or be covered by an authorized contingency.

10.1.2 A Change Order is a written order to the Contractor signed by the County, Architect/Engineer, and Contractor, issued after the execution of this Contract, authorizing a change in the Project and/or an adjustment in the construction authorization, the Contractor's fee, or the Construction Completion Date. Each adjustment in the Guaranteed Maximum Price resulting from a change order shall be documented clearly to separate the amount attributable to the cost of the change in the Project from the original cost of the Project.

10.1.3 The increase or decrease in the Guaranteed Maximum Price resulting from Change Orders in the Project shall be determined by one of the following ways:

(1) by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect/Engineer and County;
(2) by unit prices stated in the Contract or subsequently agreed upon;
(3) by cost as defined in Article 9 plus a mutually acceptable fixed or percentage fee; or
(4) by the method provided in Subsection 10.1.4.

10.1.4 If none of the methods set forth in Subsection 10.1.3 above can be agreed upon, the Contractor, provided it receives a written order signed by the County, shall promptly proceed with the work required by the Construction Change Directive involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. However, in the event a Change Order is issued under these conditions, the Architect/Engineer will establish an estimated cost of the work and the Contractor shall not perform any work whose cost exceeds that estimate without prior written approval by the County. In such case, and also under Subsection 10.1.3 above, the Contractor shall keep and present, in such forms as the County may prescribe, an

itemized accounting together with appropriate supporting data of the increase in the Cost of the Project as outlined in Article 9. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Contractor to the County for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease in the Cost of the Project and the Contractor's fee subject to the limits set forth in Article 7.

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

10.1.6 In the event the Contractor or its contracted subcontractors encounter the following:

(1) concealed conditions in the performance of the Work below the surface of the ground; or
(2) concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Drawings, Specifications, or County furnished information; or
(3) unknown physical conditions below the surface of the ground; or
(4) concealed or unknown conditions in an existing structure of an unusual nature;
(5) differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, then the Guaranteed Maximum Price and the Construction Completion date shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Subsection 10.2. and Article 11.

Upon discovery of the above concealed or unknown conditions, the Contractor shall notify the County and Architect/Engineer within twenty-four hours of discovery, and not proceed with Work until such notice has been given and a response is issued by the County. The Architect/Engineer will evaluate the alleged unknown or concealed condition and, if warranted, recommend to the County that the Guaranteed Maximum Price and schedule be increased or decreased accordingly. No claim under this Article may be made unless notice, as herein provided, is given prior to Work being performed. No equitable adjustment shall be permitted if this notice provision is not complied with.

Within ten days of submitting its Notice, the Contractor shall submit to the County its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected. Within thirty days from Notice, the Contractor shall submit detailed schedule impact and detailed cost analysis indicating quantities, unit prices, etc.

10.1.7 The Contractor shall review any County directed change and shall respond in writing within seven days after receipt of the proposed change (or such other reasonable time as the County may direct), stating the effect of the proposed change upon the Contractor's Work, including any increase or decrease in the contract time or price. The Contractor shall furnish to the County an itemized breakdown of the quantities and prices used in computing the change in Contract price.

The County and Architect/Engineer shall review the Contractor's proposal and respond to the Contractor within seven days of receipt. If a change to the Contract price and time for performance are agreed upon, both parties shall sign the Change Order. Changes to the Contract time and/or price shall be effective when signed by both parties. It shall be the County's discretion as to whether each change order requires the Architect/Engineer's signature.

10.2 Claims for Additional Cost or Time

All claims for additional cost or time shall be made by request for a change order submitted as provided in Article 16.

10.2.1 If the Contractor is delayed at any time in the progress of the work by any act or neglect of the County or the Architect/Engineer or of any employee of either or by any separate Contractor employed by the County or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control or by delay authorized by the County pending resolution or disputes, and such delay extends the completion date, the Substantial Completion shall be extended by Change Order for such reasonable time as the Construction Team may determine.

10.2.2 All change orders must indicate that the Contract Time for Completion is not changed or is either increased or decreased by a specific number of days. The previous Time for Completion and, if there is one, the new Time for Completion must be stated. The Contractor must provide written justification for an extension of the Time for Completion to the Architect/Engineer and to the County. The written justification must demonstrate an anticipated actual increase in the time required to complete the Work beyond that allowed by the Contract as adjusted by prior change orders or amendments to the Contract, not just an increase or decrease in the time needed to complete some portion of the total Work. No increase to the Time for Completion shall be allowed unless the additional or changed Work increases the length of the critical path. Approved increases in time required to complete the Work shall be added to the Time for Completion. Decreases in time as a result of the change order shall be demonstrated by a decrease in the critical path of the Work if Construction Project Manager scheduling is properly used and updated by the Contractor. If no Construction Project Manager is used, the County shall determine the appropriate decrease by the best means possible. Approved decreases in the time needed to complete the Work shall be deducted from the Contract completion date. The change to time and Contract price allowed by each change order shall include all time and monetary impacts of the change, whether the change order is considered alone or with all other changes during the course of the project. Failure to include a change to time and Contract price in a change order shall waive any change to the time and Contract price unless the parties mutually agree in writing to postpone a determination of the change to time and price resulting from the change order. Such a determination may be postponed not more than forty-five days to give the Contractor an opportunity to demonstrate a change in the time and price needed to complete the Work.

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

10.3 Minor Changes in the Project (Realignment of Work)
The County and/or Architect/Engineer will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Construction Completion Date and not inconsistent with the intent of the Drawings and Specifications. Such changes shall be affected by written order. Documentation of changes shall be determined by the Construction Team, and included in the Project Manual. Changes shall be approved by the Project Director or Architect/Engineer. It shall be in the County's discretion as to whether a Realignment of Work requires the Architect/Engineer's signature. All changes or realignments of work performed within the Guaranteed Maximum Price will not include overhead, profit or General Condition additional costs, since costs are absorbed within the Guaranteed Maximum Price. In any emergency affecting the safety of persons or property, the Contractor shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Price or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 10.

ARTICLE 11

DISCOUNTS

11.1 All discounts for prompt payment shall accrue to the County to the extent the Cost of the Project is paid directly by the County or from a fund made available by the County to the Contractor for such payments.

To the extent the Cost of the Project is paid with funds of the Contractor, all cash discounts shall accrue to the Contractor. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Project.

ARTICLE 12

PAYMENTS TO THE CONSTRUCTION MANAGER

12.1 Monthly Statements - The Contractor shall submit to the County a sworn statement along with the Certificate for Payment, showing in detail all monies paid out, cost accumulated or costs incurred on account of the Cost of the Project during the previous period and the amount of the Contractor's fees due as provided in Article 8. This data shall be attached to the Certificate for Payment Form shown in **Attachment "N"**, and shall include, but not be limited, to the following:

- Daily Reports.
- Updated Project Schedule.
- Daily Red line As-Builts review.
- Provide a billing report with each payment application that shows a breakdown of costs incurred by line item. This report should correspond with the amounts being charged on the Schedule of Values.
- Provide backup copies of all invoices that the County is being billed for, including vendor invoices, payments to subcontractors, cell phone statements, insurance, petty cash receipts, etc. These invoices should be coded by the line item in order to correspond to the billing report and Schedule of Values.
- Provide backup copies and documentation of all costs incurred under General Conditions.
- Provide backup copies of all payroll that details which labor amounts were paid to whom on a weekly basis.
- Provide copies of all subcontractor contracts.

* The amounts charged on the Payment Application must be accurate and correspond with the total dollar amount of backup provided by the Contractor.

Payment by the County to the Contractor of the statement amount shall be made in accordance with Section 218.735, Florida Statutes.

Ten percent of each payment shall be held by the COUNTY as retainage until fifty percent completion of such Project, which shall be deemed to have occurred when fifty percent of the Guaranteed Maximum Price, as increased or decreased from time to time, has been expended. At that time, the retainage shall be reduced to five percent and the Contractor shall be entitled to request payment or release of up to fifty percent of the previously withheld retainage amounts, provided the retainage is not the subject of a good faith dispute, the subject of a claim brought pursuant to s. 255.05, Florida Statutes or otherwise the subject of a claim or demand by the COUNTY.

County may refuse to certify payment and withhold a Certificate for Payment in whole or in part, in accordance with subsection(s) above, to such extent as may be reasonably necessary to protect the County from loss because of:

(1) defective work not remedied;
(2) third party claims filed or reasonable evidence indicating the probable filing of such claims;
(3) failure of Contractor to make payments properly to subcontractors, consultants, or for labor, materials or equipment;
(4) evidence that the Project cannot be completed for the unpaid balance of the Guaranteed Maximum Price, as adjusted;
(5) evidence that the Work will not be completed by the Scheduled Completion Date, as adjusted, and that the unpaid balance would not be adequate to cover the liquidated damages for the anticipated delay;
(6) failure to carry out the Work of the Project in accordance with the Contract Documents; or

If the County is unwilling to certify payment in the amount of the Application for Payment submitted by the Contractor, County will provide Contractor with written reasons for its refusal, within three days. If Contractor and County cannot agree on a revised amount, County will, within one day of the aforesaid notification, promptly issue a Certificate for Payment as to the undisputed amount with respect to which County concurs.

12.2 Final Payment - Final payment constituting the unpaid balance of the Cost of the Project and the Contractor's fee shall be due and payable in accordance with Florida Statutes after an *acceptable* Certificate of Final Completion has been issued **and all contractual closeout obligations have been met by the Contractor**. Before issuance of final payment, the Contractor, subcontractors and agents shall submit original, sworn, notarized statements that all payrolls, material bills, and other debts connected with the Project have been paid or otherwise satisfied, warranty information is complete, Final As-Builts in AutoCad format acceptable to the County, have been submitted and instruction and documentation for the County's operating and maintenance personnel is complete.

12.3 Payments for Materials and Equipment - Payments will be made for material and equipment not incorporated in the work but insured, itemized, delivered and suitably stored at the site or another location subject to prior approval and acceptance by the County on each occasion.

12.4 Withholding Payments to Subcontractors - The Contractor shall not withhold payments to subcontractors if such payments have been made to the Contractor. In the event that the Contractor withholds payments to subcontractors for any reason, the Contractor shall immediately return such monies to the County, adjusting pay requests and project bookkeeping, as required.

ARTICLE 13

INSURANCE, INDEMNITY WAIVER OF SUBROGATION

13.1 (1) Indemnification - The Contractor agrees to indemnify and hold harmless the County, and its employees and agents, from all claims, losses and expenses, arising out of or resulting from the performance of the products or services to be contracted, provided such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, death or personal injury, or to property damage, including loss of use resulting therefrom, (but not loss of use for which liquidated damages are assessed under the Contract) and (2) is caused in whole or in part by any act or omission, negligent or otherwise, of the Contractor, any subcontractor, any of their employees and/or agents in the performance of this contract. The Contractor agrees that it will pay the costs of the County's legal defense, including reasonable fees of attorneys as may be selected by the County, and shall defend, satisfy, and pay any judgments which may be rendered against the County in connection with the above hold harmless language. The Contractor acknowledges specific consideration has been received for this hold harmless/indemnification provision.

(2) The County shall cause any other Contractor who may have a contract with the County to perform construction or installation work in the area where work will be performed under this Contract, to agree to indemnify the County and the Contractor and hold them harmless from all claims for bodily injury and property damage (other than property insured under Subsection 13.2(3) that may arise from the Contractor's operations.

(3) Loss Deductible Clause - The County shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor and/or Subcontractor providing such insurance.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28.

13.2 Insurance

(1) The Contractor shall not commence any construction work in connection with this Contract until the Contractor has obtained all of the following types of insurance and such insurance certificate(s) have been submitted to the County and have been approved by the County, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all insurance required of the Subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in the State of Florida.

a. Commercial General Liability - Including but not limited to bodily injury, property damage and personal injury with limits of not less than Two Million Dollars per occurrence, including products and completed operations, to include:

1. "XCU" (Explosion, Collapse, Underground Damage) - The Contractor's Liability Policy shall provide "XCU" coverage.

2. Broad Form Property Damage Coverage, Products and Completed Operations Coverage - The Contractor's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages.

3. Contractual Liability Work Contracts - The Contractor's Liability Policy shall include Contractual Liability Coverage designed to protect the Contractor for contractual liabilities assumed by the Contractor in the performance of this Contract.

b. Automobile Liability - Including bodily injury, property damage liability for all vehicles owned, hired, leased and non-owned with limits of not less than Two Million Dollars per occurrence.

c. Worker's Compensation - Workers Compensation insurance providing statutory benefits as required in the State of Florida. The Contractor shall require any Subcontractor to provide evidence of this coverage. Additionally, if the contract requires working on or around a navigable waterway, the Contractor and all Subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in compliance with Federal statutes or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each Subcontractor, vendor or supplier.

d. Professional Liability Insurance - In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the vendor shall also be protected by a Professional Liability Insurance Policy in the amount of One Million Dollars per occurrence.

e. Builders Risk Insurance - In the event the contract involves services related to construction projects, the vendor shall also procure and maintain a Builders Risk Insurance Policy or Installation Floater with loss limits equal to the value of the construction project and issued to provide coverages on an "all risk" basis including theft.

In addition to the above, Specialty Insurance policies covering specific risks of loss (including but not limited to, for example; Longshore coverage, Crane and Rigging, Inland Marine, etc.) may be required by Brevard County Risk Management. Any additional specialty insurance coverage requirement will be dictated by the specific goods, products or services provided under the subject contract and insurance underwriting standards, practices, procedures or products available in the commercial insurance market at the time of the contract inception. The Vendor is required to procure and maintain all such specialty coverage in accordance with prudent business practices within the Vendors industry.

(2) Performance and Payment Bonds - With limits of not less than one hundred percent of the total construction cost of this project. Payment and Performance Bond shall be recorded in the official record of the County in which the project is located. These bonds shall remain in effect at least until one year after the date when the final payment is approved. Any bonding company submitting a Bid Bond, Performance Bond or Payment Bond to Brevard County must be licensed to transact a fidelity and surety business in the State of Florida, and hold a Certificate of Authority from the Secretary of the Treasury under Act of Congress, approved by July 30, 1947 (United States Code 613), and approved by Brevard County. Acceptable surety companies shall be licensed to do business in Florida and shall have an A.M. Best Rating of "A-" and financial size V or higher.

The Contractor shall require each of its subcontractors to procure and maintain insurance during the life of the respective subcontracts.

(3) Certificate of Insurance - The County shall be furnished proof of coverage of Insurance as follows:

Certificate(s) of Insurance will be furnished to the County within five days of the issuance of the Notice to Proceed. All Certificate(s) of Insurance shall be completed and signed by the authorized Resident Agent, and shall be dated and show:

(1) The name of the insured Contractor, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date.

(2) The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the Brevard County Board of County Commissioners as an additional insured to the extent of liability assumed by the Contractor under this Contract, and that these policies may not be canceled or modified without thirty days prior written notice to the County.

(3) The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the Contractor under the terms of the Contract.

*Certificates of Insurance shall be submitted to the County within five days of Notice to Proceed, and no work shall commence on site until all submitted Certificates of Insurance are acceptable to the County.

13.3 Waiver of Subrogation

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

13.3.2 The County and Contractor waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Contractor shall require similar waivers from all subcontractors and their sub- subcontractors.

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

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

ARTICLE 14

TERMINATION OF THE CONTRACT AND COUNTY'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATION

14.1 Termination by the Contractor - If the Project is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor, or if the Project should be stopped for a period of thirty days by the County, then the Contractor may, upon written notice to the County within seven days of such act, request undisputed payment for all work executed, the Contractor's fee earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit, damages and terminal expenses incurred by the Contractor.

14.2 County's Right to Perform Contractor's Obligations and Termination by County for Cause -

(1) If the Contractor fails to perform any of its obligations under this Contract, the County may, after seven days written notice during which period the Contractor fails to perform such obligations, make good such deficiencies. The Guaranteed Maximum Price, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the County to making good such deficiencies and the Contractor's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

(2) If the Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, or if it persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls forty-five days or more behind schedule) which has been adopted by the Construction Team, or if it fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract, then the County may, without prejudice to any right or remedy and after giving the Contractor and its surety, if any, seven days written notice, during which period Contractor fails to cure the violation, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and may finish the Project by whatever method he may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable termination expenses incurred by the County may be deducted from any payments left owed to the

Contractor (excluding monies owed the Contractor for subcontract work).

14.3 Termination by County for Convenience

(1) If the County terminates this Contract other than pursuant to Subsection 14.2(2) or Subsection 14.3(2), the County shall reimburse the Contractor for any unpaid cost of the Project due it under Article 9, plus that part of the unpaid balance of the Construction Phase Fee in an amount as will increase the payment on account of its fee to a sum which bears the same ratio to the Construction Phase Fee as the Cost of the Project at the time of termination bears to the Guaranteed Maximum Price, if established, otherwise to the County's Construction Budget. The County shall also pay to the Contractor fair compensation, either by purchase or rental at the election of the County, for any equipment retained. In case of such termination of the Contract, the County shall reimburse the Contractor for obligations and commitments made before notice of termination was received by the Contractor.

(2) After the establishment of the Guaranteed Maximum Price or at the completion of the Construction Phase, if the final cost estimates or lack of legislative funding make the Project no longer feasible from the standpoint of the County, the County may terminate this Contract and pay the Contractor its proportionate fee due in accordance with Subsection 8.1, plus any costs incurred pursuant to Articles 9 and 10.

(3) Any termination by County for cause which is later determined to be invalid shall be considered a termination for convenience by the County.

14.4 Termination for Prohibition Against Contracting With Scrutinized Companies

(1) The Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this Contract at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Contract.

If this Contract is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this Contract at its sole option if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Contract.

The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

(2) As required by Section 287.135(5), Florida Statutes, prior to entering into a contract in excess of one million dollars to provide goods or services to Brevard County, an individual with authority to execute this Contract for the Contractor shall file a sworn statement with

the contracting officer or Purchasing Director, as applicable verifying that none of the three conditions above exist. If the Contractor is found to have falsified the affidavit attached as **Attachment "O"**, the County may terminate the contract.

(3) If subsequent to the submittal of the attached affidavit, the Contractor: (1) has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel; (2) is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or (3) is engaged in business operations in Cuba or Syria, the County may terminate this Contract.

(4) Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract. As provided in Section 287.135(8), Florida Statutes, if Federal law ceases to authorize these contracting prohibitions, this Subsection shall become inoperative and unenforceable.

ARTICLE 15

ASSIGNMENT; GOVERNING LAW; VENUE; SEVERABILITY

15.1 Neither the County nor the Contractor shall assign their respective interest in this Contract without the written consent of the other except as to the assignment of proceeds.

15.2 This Contract shall be governed by the Laws of the State of Florida.

15.3 Venue and Attorney's Fees: Venue for any legal action brought by any party to this Contract to interpret, construe or enforce this Contract shall be in a court of competent jurisdiction in and for Brevard County, Florida. In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

15.4 Severability: If any provision of this Contract is held by a Court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired.

ARTICLE 16

NOTICE OF CLAIM: WAIVER OF REMEDIES; NO DAMAGES FOR DELAY; DISPUTE RESOLUTION

16.1 The County's liability to Contractor for any claims arising out of or related to the subject matter of this Contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the County of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:

(a) All claims must be submitted as a Request for Change Order in the manner as provided herein.

(b) If the Contractor claims that any instructions given to him by the Architect/Engineer or by the County, by drawings or otherwise, involve extra Work not covered by the Contract and not discoverable with a review of the plans and specifications, then, except in emergencies endangering life or property, Contractor shall give the Architect/Engineer and the County written notice thereof before proceeding to execute the Work. Said notice

shall be given promptly enough to avoid delaying the Work and in no instance later than twenty days after the receipt of such instructions.

(c) The Contractor must submit a Notice of Claim to the County and to the Architect/Engineer within twenty days of when the Contractor was or should have been aware of the occurrence of the event giving rise to the claim.

(d) Within ten days of submitting its Notice of Claim, the Contractor shall submit to the County its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected. Within thirty days from the Notice of Claim the Contractor shall submit a detailed schedule impact and detailed cost analysis indicating quantities, unit prices, etc. establishing the basis for the amount of the claim.

(e) The Contractor agrees that the County shall not be liable for any claim that the Contractor fails to submit as a Request for Change Order as provided in this section.

16.2 After receipt of a Request for Change Order, the County, in consultation with the Architect/Engineer, shall deliver to the Contractor its written determination of the claim. As to disputed matters subject to the determination by final County action (not actions for breach of contract or tort), the County's written decision following compliance with the dispute resolution procedure set forth in Subsections 16.4 through 16.6 below shall be final County action.

16.3 For work the Contractor performs with its own forces, and in addition to the adjustments provided for in Article 8, the Contractor's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the County or the Architect/Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Subsection 16.1 above, for an extension of the scheduled construction time. In the event of a change in such work that will modify the Guaranteed Maximum Price, the Contractor's claim for adjustment in contract sum are limited exclusively to its actual costs for such changes, including costs involved in claim preparation, plus five percent overhead, five percent profit and a two percent bond in the General Conditions. The Contractor expressly agrees that the foregoing constitute its sole and exclusive remedies for delays and changes in such work, and eliminate any other remedies for claim for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

16.4 In the event of any dispute over a proposed change order or any other matter arising out of the implementation or interpretation of this Contract the following dispute resolution process shall apply.

(a) Within three days after denial of a Contractor's change order or contract modification request in an amount, individually or in total, less than the authorized purchasing level approved for the County Manager by the County Commission (currently at one hundred thousand dollars), the Contractor may submit to the County Manager, or his/her designee, documentation of the Contractor's position in the dispute or disagreement. The County Manager, or designee, within five days after the receipt of the Contractor's documentation, shall review the request and make a final determination as to whether denial was arbitrary and capricious based upon the sufficiency of the work under the terms of this Contract, applicable regulations, and/or relevant construction standards. Based upon the sufficiency and degree of completion, as well as any defects in the work and the amount reasonably required, if any, to correct or repair defective work, the County Manager, or designee, shall make the final determination as to whether a written change order or contract modification should be approved.

(b) If the denied request or disputed amount exceeds the County Manager's purchasing authority, the County Manager shall present a report, recommendation and the Contractor's claim and documentation, to the County Commission for a final determination within thirty days after receiving the Contractor's documentation for the claim. The Commission shall make its decision using the standards specified in subparagraph (a) above.

16.5 Within thirty days after denial of a request for a change order or contract modification by the Contractor involving (1) an amount in excess of the County Manager's expenditure authority or (2) for the amount the Contractor claims to be due at the time the Project is ready for beneficial use or occupation, the County may, at the County's option in lieu of the procedure specified in Subsection 16.4, submit the dispute to a mediator with knowledge or experience in construction management, as agreed upon by the Contractor and the County. Upon referral to a mediator, the County and Contractor shall each pay half the estimated cost of the mediator, up front. Within fifteen days after the date of submittal, the mediator, applying the standards set forth in Subsection 16.4, shall investigate the dispute and submit a written recommendation for disposition of the dispute to the County Manager, or designee, with the qualifications specified in Subsection 16.4. Within fifteen days after receiving the mediator's recommendation, the County Manager shall submit the recommendation to the County Commission, along with a staff report analyzing the dispute and mediator's recommendation. Based on the standards set forth in Subsection 16.4 above, the County Commission shall decide whether to grant or deny, in whole or in part, the amounts recommended by the mediator. The County Commission's decision will be deemed final action on the disputed claim for the purposes of ripening the decision for judicial review. If the mediator recommends that no change order or contract modification be granted, the Contractor shall reimburse the County for any amounts paid by the County to the mediator.

16.6 The deadlines for completing the dispute resolution process described in Subsections 16.4 and 16.5 may be extended by mutual written agreement of the Contractor and the County.

ARTICLE 17

COUNTY'S RIGHT TO PERFORM ONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

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

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

17.3 Unless otherwise provided in the Contract Documents, when the County performs construction or operations related to the project with the County's own forces, the County shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract.

17.4 The Contractor shall afford the County, and separate contractors, reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the separate contractors' construction and operations with the Contractor, as required.

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

17.6 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible thereof.

17.7 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the County or separate contractors.

ARTICLE 18

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) REQUIREMENTS

During the performance of this Contract, the Contractor agrees as follows:

18.1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to all employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

18.2. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

18.3. The Contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the Contractor's commitments under this Article, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

18.4. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.

18.5. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

18.6. In the event of the Contractor's non-compliance with the non-discrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

18.7. The Contractor shall include the portion of the sentence immediately preceding Subsection 18.1 and the provisions of Subsections 18.1 through 18.7 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

18.8. **Clean Air Act and the Federal Water Pollution Control Act:** (For all contracts in excess of One hundred fifty thousand dollars)

A. **Clean Air Act** –

i. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 United States Code § 7401, et seq.

ii. The Contractor agrees to report each violation to the County through its Parks and Recreation Department and understands that the Brevard County Parks and Recreation Department will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

iii. The Contractor agrees to include these requirements in each subcontract exceeding one hundred, fifty thousand dollars financed in whole or in part with Federal assistance provided by Federal Emergency Management Agency.

B. **Federal Water Pollution Control Act** -

i. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 United States Code 1251, et seq.

ii. The Contractor agrees to report each violation to the County through its Parks and Recreation Department and understands and agrees that the Brevard County

Parks and Recreation Department will, in turn, report each violation to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

iii. The Contractor agrees to include these requirements in each subcontract exceeding one hundred, fifty thousand dollars financed in whole or in part with Federal assistance provided by Federal Emergency Management Agency.

18.9. **Suspension and Debarment**:

A. This Contract is a covered transaction for purposes of 2 Code of Federal Regulations pt. 180 and 2 Code of Federal Regulations pt. 3000. As such, the Contractor is required to verify that neither the Contractor, its principals (defined at 2 Code of Federal Regulations § 180.995), or its affiliates (defined at 2 Code of Federal Regulations § 180.905) are excluded (defined at 2 Code of Federal Regulations § 180.940) or disqualified (defined at 2 Code of Federal Regulations. § 180.935).

B. The Contractor shall comply with 2 Code of Federal Regulations pt. 180, subpart C and 2 Code of Federal Regulations pt. 3000, subpart C, and shall include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

C. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 Code of Federal Regulations pt. 180, subpart C and 2 Code of Federal Regulations pt. 3000, subpart C, in addition to remedies available to the State of Florida (Division of Emergency Management) and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

D. The Contractor agrees to comply with the requirements of 2 Code of Federal Regulations pt.180, subpart C, and 2 Code of Federal Regulations pt. 3000, subpart C, while this Contract is valid. The Contractor agrees to include a provision requiring such compliance in its lower tier covered transactions.

18.10. **Byrd Anti-Lobbying Amendment, 31 United States Code § 1352 (as amended):**
Contractors who apply or bid for an award of one hundred thousand dollars or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 United States Code § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the recipient.

18.11. **Procurement of Recovered Materials:**
In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are Environmental Protection Agency-designated items unless the product cannot be acquired:

A. Competitively within a timeframe providing for compliance with the Contract performance schedule;

B. Meeting Contract performance requirements; or

C. At a reasonable price.

Information about this requirement, along with the list of Environmental Protection Agency-designate items, is available at the Environmental Protection Agency's Comprehensive Procurement Guidelines website at

https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

18.12. **Additional Federal Emergency Management Agency Requirements:**

A. **Access to Records**:

i. The Contractor agrees to provide the County, the Federal Emergency Management Agency Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions.

ii. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

iii. The Contractor agrees to provide the Federal Emergency Management Agency Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Contract.

B. **DHS (Department of Homeland Security) Seal, Logo and Flags**:

The Contractor shall not use Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of Department of Homeland Security agency officials without specific Federal Emergency Management Agency pre- approval.

C. **Compliance with Federal Law, Regulations and Executive Orders**:

The Contractor acknowledges that FEMA financial assistance will be used to fund this Contract and resulting Contracts only. The Contractor shall comply with all applicable federal law, regulations, executive orders, Federal Emergency Management Agency policies, procedures and directives.

D. **No Obligation by Federal Government**:

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, i.e., Contractor, or any other party pertaining to any matter resulting from the Contract.

E. **Fraud and False or Fraudulent or Related Acts**:

The Contractor acknowledges that 31 United States Code Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

ARTICLE 19

MISCELLANEOUS

19.1 Interest - Any monies not paid when due to either party under this Contract shall not bear interest except as may be required by Section 218.70, et seq., Florida Statutes, ("The Florida Prompt Payment Act").

19.2 Harmony - Contractor is advised and hereby agrees to exert every reasonable and diligent effort to assure that all labor employed by Contractor and its subcontractors for work on the Project

shall work in harmony with and be compatible with all other labor being used by building and Contractors now or hereafter on the site of the Project.

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

19.3 Apprentices - If the Contractor employs apprentices on the Project, the behavior of the Contractor and the County shall be governed by the provisions of Chapter 446, Florida Statutes, and by applicable standards and policies governing apprentice programs and agreements established by the Division of Labor of the State of Florida Department of Labor and Employment Security. The Contractor shall include a provision similar to the foregoing sentence in each subcontract.

19.4 Minority Participation - The Contractor shall *diligently attempt* to award its material contracts, subcontracts and sub-subcontracts to firms having a letter of certification as a minority business from the Office of Minority Business Assistance, Department of General Services, or any other Federal, Florida, County or City certification.

19.5 Minority Employment Information - The County requires construction contractors, who would otherwise be required to file and Equal Employment Opportunity Form 1 Report under Federal Law (currently Federal law requires filing for employers with more than fifteen employees), to submit an Equal Employment Opportunity Form 1 Report with the submission of their Guaranteed Maximum Price. This requirement extends to any subcontractors who are required to submit the Equal Employment Opportunity Form 1 Report (over fifteen employees) under Federal law. Failure to submit an EEO Form 1 Report with the Guaranteed Maximum Price will be reason to declare the submission "non-responsive". However, the information will be used for statistical purposes only and will not be used in any way as a basis to award a contract. See **Attachment "P"**.

19.6 Public Entity Crime Affidavit attached as **Attachment "Q"**.

19.7 Non-Collusion Affidavit of Prime Bidder attached as **Attachment "Q"**.

19.8 Copyright Clause No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by Contractor in the United States or any other Country.

19.9 E-Verify

A. The Contractor:

i. Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor during the term of the Contract; and

ii. Shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and

iii. Agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the Contractor's enrollment in the

program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program.

B. Compliance with the terms of this section is made an express condition of this Contract and the County may treat a failure to comply as a material breach of this Contract.

C. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-verify program, the contractor hires or employs a person who is not eligible for employment.

D. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

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

ATTEST:

Scott Ellis, Clerk of Court

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA

By: _____ 2/6/19
Kristine Isnardi, Chair Date

As approved by the Board 4/24/2018

Reviewed for legal form and content

Abigail Forrester Jorandby
Assistant County Attorney

HEARD CONSTRUCTION, INC.

By: _____ 2/6/19
Andrew Day, President Date

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 6th day of Feb. 2019 by whose position is President with the firm of Heard Construction, a Florida Corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ as identification.

NOTARY PUBLIC

Typed/Printed Name

Notary Public State of Florida
Melissa Ann Warren
My Commission GG 204526
Expires 07/10/2022

ATTACHMENT "A"

CONSTRUCTION TEAM ASSIGNED REPRESENTATIVES

COUNTY

Brevard County Parks and Recreation Department

Project Director: Mike Butcher
Contract Administrator: Melissa Renninger

ARCHITECT-ENGINEER

BRPH, 5700 North Harbor City Blvd, Suite 400, Melbourne, FL 32940

CONSTRUCTION MANAGER

Heard Construction, Inc., 95 E. Hall Road, Merritt Island, FL 32953

President - Andrew Day
Vice President/Principal-In-Charge – Lu Anne Woodley
Director of Construction – Lu Anne Woodley
Project Manager – Lu Anne Woodley
Project Administrator – Lu Anne Woodley
Project Superintendent – Lu Anne Woodley
Estimator/Cost Control – Harry Earl
Schedules – Lu Anne Woodley

ATTACHMENT "B"

PROJECT SCOPE OF WORK

Provide all labor, materials, and equipment for: Dock and Walkway Repair at Intracoastal Waterway Park.

ACTIVITY - South Dock

1. Mobilization and install turbidity barrier
1. Demo and removal of old structure
2. Selective demolition of south dock
3. Remove decking to expose washout and allow proper backfilling and stabilization
4. Core drill access hole in existing asphalt and place flowable fill per 121 DOT
5. Remove loose wood framing and fasteners
6. Provide compacted fill in washout areas. Provide geotextile fabric over compacted washout fill and minimum of 2.5' coquina rock rubble cover
7. Reinstall removed decking after slope stabilization
8. 2 x 8 wood planks on flat, 2 x 12 framing
9. Existing guardrail is to be removed and replaced
10. Final clean-up and job left in broom clean condition

ACTIVITY - North Dock

1. Work Area 1 - Guardrail and spindles to be repaired
2. Work Area 2 - Repair Pile
3. Work Area 3 - Remove existing FRP grating, replace 2 x joist framing, reinstall grating, install new composite grating where it is missing
4. Final clean-up and job left in broom clean condition

CLARIFICATIONS, QUALIFICATIONS AND EXCLUSIONS:

1. All A&E fees are excluded.
2. No permits of any kind are included.

ATTACHMENT "C"

DIRECT PURCHASING PROCEDURE

INTENT: The County intends that these procedures govern the County's direct purchases of selected materials so that the County may take advantage of its tax exempt status. All monies which would have been payable as taxes, if not for County direct purchase under these procedures, will inure solely to the benefit of the County. The County's direct purchase of materials will not minimize or conflict with the Contractor's responsibility for the purchase, installation, coordination, storage, protection, warranty, etc. of the materials as described herein and in the plans and specifications of the Contract.

DEFINITIONS: For the purpose of these Procedures, the following words have the following definitions:

1. Contract: Construction Manager Contract by and between the Contractor and the County to provide labor, materials, and equipment for: dock and walkway repair at Intracoastal Waterway Park.

2. County: See Definition in Article I, Section 1.3.

3. County Purchased Materials: Materials purchased directly by the County through execution and delivery of a Purchase Order.

4. County's Representative: See Definition in Article I. Section 1.3.

5. GMP: Guaranteed Maximum Price established under the Contract.

6. Materials: Tangible Personal Property necessary for completion of the Project.

7. Materials Deduction Summary: Written document signed by the County's representative and Contractor setting forth the amounts of County Purchased Materials, plus applicable taxes were the purchase not exempt from such taxes, as reflected in the parties' previously executed deductive change order(s) to the Contract showing deduction of such Materials from the GMP.

8. Project: See Definition in Article I., Section 1.3.

9. Purchase Order: The County's request for Materials from a particular vendor or supplier when fully executed and delivered to the Contractor, and the County's promise to pay for the Material specified upon delivery and acceptance at the Project site, and presentation of an invoice by the Contractor to the County certifying payment of same.

10. Material Requisition: A request by the Contractor to the County that the County directly purchase specific items described in sufficient detail, including quantity, grade, brand, etc. along with the vendor or material supplier and that vendor or material supplier's quoted price for the Materials.

OVERVIEW: The County requires the Contractor to notify the County's representative of Materials needed for the Project exceeding Five Thousand Dollars in value, through a Material Requisition form. For the purpose of these Procedures, the Contractor shall assign to the County any rights the Contractor may have under quotes, contracts or commitments received from the particular vendor or supplier for the Materials described in the Material Requisition. Any Materials purchased by the County pursuant to these Procedures shall be referred to as "County Purchased Materials", and the responsibilities of the County and Contractor relating to such County Purchased Materials shall be governed by the terms and conditions of these Procedures, which shall take precedence over other conditions and terms of the Contract documents where inconsistencies or conflicts exist. The invoiced amount of County Purchased Materials and applicable sales tax had the purchases not been tax exempt, once finalized through the County's Purchase Order and after confirmation of completed delivery and acceptance pursuant to this Procedure will be deducted from the GMP, as defined in the Contract, by deductive change order.

COUNTY DIRECT PURCHASING REQUIREMENTS AND PROCEDURES: When a Materials purchase for the Project is estimated to be $5,000 or greater and time allows for an Owner Direct Purchase, Contractor shall prepare a Material Requisition form, (to be provided by the County), acceptable to County, and which specifically identifies Materials which County may, in its discretion, elect to purchase directly. The Material Requisition form shall be complete when submitted, and all information requested provided. Along with the Material Requisition the Contractor shall provide.

a. The name, address, telephone and fax number and contact person for the material supplier;
b. Manufacturer or brand, model or specification number of the item;
c. Quantity needed as estimated by Contractor;
d. The price quoted by the supplier for the Materials identified therein;
e. Any sales tax associated with such quote if it were not purchased by a tax exempt entity;
f. Shipping and handling cost, including associated insurance;
g. Delivery dates as established by the Manager;
h. Subcontractor's written acknowledgement of these Procedures for County Director Purchase of Materials.

After receipt of the Material Requisition, the County's Representative will determine whether the County will directly purchase the Materials described in the Material Requisition, and communicate consent or decline to purchase the materials to the Contractor within twenty four (24) hours. Brevard County's Purchasing Department shall be the County's approving authority on Purchase Orders of County Purchased Materials. If the County consents to purchase the Materials, the County shall issue a Purchase Order for same. The County shall issue the original Purchase Order, and the Contractor shall deliver the Purchase Order to the subcontractor. The Purchase Order shall require (1) that the supplier provide the required shipping, (2) that the supplier provide the required shipping and handling insurance, and (3) delivery of the County Purchased Materials on the delivery dates provided by the Contractor in the Material Requisition.

The Contractor shall be fully responsible for all matters relating to the receipt of County Purchased Materials under these Procedures, including, but not limited to preparation of shop drawings and submittals, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials due to the negligence of the Contractor. The Contractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally

required by the Contractor for the Materials furnished. The contractor shall provide all services required for the unloading, handling and storage of materials through installation. The Contractor agrees to indemnify and hold the County harmless from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions of the Contractor.

The Contractor shall insure that County Purchased Materials conform to the Specifications, and determine prior to incorporation in the Project, if such Materials are patently defective, and whether such Materials are identical to the Material ordered and match the description on the bill of lading. As County Purchased Materials are delivered to the job site, the Contractor shall inspect all shipments from the suppliers, and, if in conformance with the Purchase Order, approve the vendor's invoice for materials delivered. The Contractor shall assure that each delivery of County Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of an itemized delivery ticket, packing slip or invoice from the supplier conforming to the Purchase Order against which the purchase is made, together with such additional information as the County may require. The Contractor shall then forward the documentation to the County.

If the Contractor discovers defective or non-conformities in County Purchased Material upon inspection, the Contractor shall not use such non-conforming defective Materials in the Project and instead shall promptly notify the County of the defective or non-conforming conditions and coordinate the repair or replacement of those Materials without any undue delay or interruption to the Project. All repair, maintenance or damage-repair calls shall be forwarded to the Contractor for resolution with the appropriate supplier, vendor or subcontractor. If the Contractor fails to perform such inspection, the condition of which the Contractor either knew or should have known by performance of an inspection, the Contractor shall be responsible for all damages to the County resulting from Contractor's incorporation of such Materials into the Project, including liquidated or delay damages.

On a bi-weekly basis, the Contractor shall be required to review invoices submitted by all suppliers of County Purchased Materials delivered to the Project Site during that month and either concur or object to the County's issuance of payment to the suppliers, based on the Contractor's records of materials delivered to the Project. In order to arrange for the prompt payment to the supplier, the Contractor shall provide to the County a list indicating the acceptance of the goods or materials within fifteen days of receipt of said invoice for goods or materials. The list shall reference the applicable purchase order and include a copy of the invoiced, delivery tickets written acceptance of the delivered items, and such other documentation in duplicate, the County shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be delivered directly to the supplier. If any discounts are available from the supplier or vendor, said discounts shall accrue to the benefit of the County, and the amount quoted by the vendor, plus applicable tax, shall be deducted from the GMP. The Contractor agrees to assist the County to immediately obtain partial or final releases or waivers as appropriate.

Following performance of the Purchase Orders by the suppliers, and submittal of documentation confirming same to County with an invoice for payment by County, the Contractor shall execute and deliver to the County at the end of each month along with the Contractor's regular pay requests, a Materials Deduction Summary setting forth the full value of all County Purchased Materials, plus all taxes which would have been payable on the purchase of the Materials had the purchased materials not been County purchased. The Materials Deduction Summary shall show all sums to be deducted by an appropriate deductive change order, and ultimately the GMP, to date. The Board of County Commissioners, or their authorized representative, shall be the approving authority for the County on

the Materials Deduction Summary for County Purchased Materials.

The Contractor shall maintain records of all County Purchased Materials incorporated in the Project. These records shall be available for inspection by the County upon request.

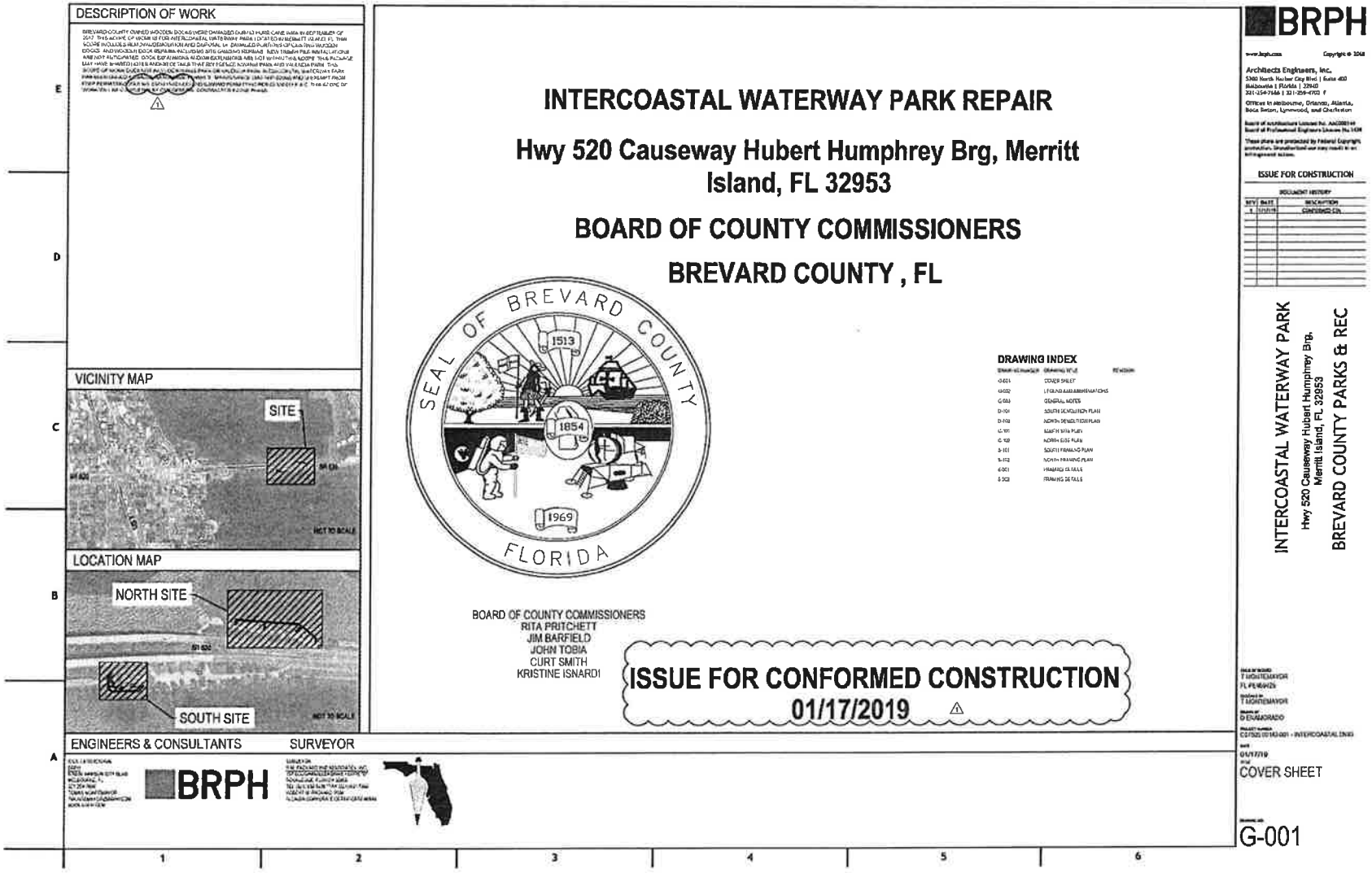
Notwithstanding the delivery of County Purchased Materials to the Project site for the Contractor's inspection, custody and incorporation into the Project, the County shall retain legal and equitable title to any and all County Purchased Materials. The transfer of possession of County Purchased Materials from the County to the Contractor shall constitute a bailment for the mutual benefit of the County and the Contractor solely for the purposes set forth herein. The County shall be considered the bailer and Contractor the bailee of the County Purchased Materials. County Purchased Materials shall be considered returned to the County for purposes of their bailment at such time as the purchased materials are incorporated in the Project or are returned to the vendor or supplier at the discretion of the Contractor prior to payment for the Purchase Order by the County.

The County shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to County Purchased Materials. Such insurance shall cover the full value of any County Purchased Materials not yet incorporated into the Project from the time the Owner first takes title to any of such County Purchased Materials and the time when the last of such County Purchased Materials is incorporated into the Project, or are returned to the vendor at the Contractor's discretion prior to County's payment for same.

The County shall in no way be liable for any interruption or delay in the Project, for any defects or other problems with the Project, or any extra costs or time resulting from any delay in the delivery of, or defects in, County Purchased Materials.

ATTACHMENT "D"

DRAWINGS AND SPECIFICATIONS



ABBREVIATIONS

NOTE: ABBREVIATIONS SHOWN MAY OR MAY NOT BE USED

AASHTO	AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS	GPD	GALLONS PER DAY	SAN	SANITARY
		GPS	GALLONS PER SECOND	SS	SANITARY SEWER / STAINLESS STEEL
ADD	ADDENDUM	GALV	GALVANIZED	SCHED	SCHEDULE
ADJ	ADJACENT	GSP	GALVANIZED STEEL PIPE	SECT	SECTION
AVE	AVENUE	GV	GATE VALVE	SHT	SHEET
ALT	ALTERNATE	GEN	GENERAL	SCP	SLOPE
AL	ALUMINUM	GRAD	GRADE	S	SOUTH
ASTM	AMERICAN SOCIETY FOR TESTING MATERIALS	GND	GROUND	SPEC	SPECIFICATION
APPROX	APPROXIMATELY	GUTT	GUTTER	SQ	SQUARE
AIE	ARCHITECTURE/ENGINEERING	CCAA	GREATER ORLANDO AVIATION AUTHORITY	SF	SQUARE FEET
ARCH	ARCHITECTURAL	GSF	GROSS SQUARE FEET	SQ IN	SQUARE INCH
ASPH CONC	ASPHALTIC CONCRETE			STD	STANDARD
ASSY	ASSEMBLY	HC	HANDICAP	STA	STATION
ASTM	AMERICAL SOCIETY OF TESTING AND MATERIALS	HD	HEAD	STL	STEEL
BF	BASE FLOOD			STORM	STORMSEWER
AVE	AVENUE	HDR	HEADER	SD	STORM DRAIN
AVG	AVERAGE	HWY	HIGHWAY	ST	STREET
AWPA	AMERICAN WOOD PROTECTION ASSOCIATION	HORIZ	HORIZONTAL	SURF	SURFACE
		HP	HOSE BIB	SYM	SYMBOL
BC	BACKFLOW COUNTY			SYS	SYSTEM
BL	BASE LINE	ID	IMAGE IDENTIFIER	SWPPP	STORMWATER POLLUTION PREVENTION PLAN
BRG	BEARING	INFO	INFORMATION		
BM	BENCH MARK	in	INCH	TAN	TANGENT
BIT	BITUMINOUS	INV	INVERT	TEL	TELEPHONE
BLK	BLOCK			TEMP	TEMPORARY
BO	BLOW OFF	JT	JOINT	TB	TEST BORING TOP OF BANK
BOT	BOTTOM	JB	JUNCTION BOX	THK	THICK
BLVD	BOULEVARD			THRU	THROUGH
BLDG	BUILDING	LAT	LATITUDE	TYP	TYPICAL
CB	CATCH BASIN	L	LENGTH		
CL	CENTERLINE	LF	LINEAR FEET	UGE	UNDERGROUND ELECTRICAL
CLF	CHAIN LINK FENCE	LONG	LONGITUDE	UTIL	UTILITY
CV	CHECK VALVE	MAINT	MAINTENANCE	VERT	VERTICAL
CHORD	CHORD	MH	MANHOLE	VOL	VOLUME
CO	CLEANOUT CHANGE ORDER	MFG	MANUFACTURER		
CON	CONCRETE	MATL	MATERIAL	W	WATER
CONC	CONCRETE	MAX	MAXIMUM	WM	WATER METER
CBS	CONCRETE BLOCK AND STUCCO	MEG	MATCH EXISTING GRADE	W/	WITH
CONN	CONNECTION	MWBL	MEAN HIGH WATER LINE MHL	W/O	WITHOUT
CONST	CONSTRUCTION	MWL	MEAN LOW WATER LEVEL		
CJ	CONSTRUCTION JOINT	MECH	MECHANICAL		
CONT	CONTINUOUS	MJMJ	MECHANICAL JOINT BY MECHANICAL JOINT		
CONTR	CONTRACTOR	MJPE	MECHANICAL JOINT BY PLAIN END		
COORD	COORDINATE	MIN	MINIMUM		
CAP	CORRUGATED ALUMINUM PIPE	MISC	MISCELLANEOUS		
CMP	CORRUGATED METAL PIPE				
CY FT	CUBIC FEET	N	NORTH		
CFM	CUBIC FEET PER MINUTE	NA	NOT APPLICABLE		
CFS	CUBIC FEET PER SECOND	NIC	NOT IN CONTRACT		
CU YD	CUBIC INCH	NTS	NOT TO SCALE		
CY	CUBIC YARD	NO	NUMBER		
CRV	CURVE	NOI	NOTICE OF INTENT		
		NOT	NOTICE OF TERMINATION		
DEPT	DEPARTMENT	OC	ON CENTER		
DET	DETAIL	OPNG	OPENING		
DIAG	DIAGONAL	ORIG	ORIGINAL		
DIA	DIAMETER	OD	OUTSIDE DIAMETER		
DIM	DIMENSION	OH	OVERHEAD		
DN	DN FLOW	OW	OVERWAY		
DBL	DOUBLE	OWC	OWNER'S CONTRACTOR COMMISSION		
DS	DOWNSPOUT				
DWG	DRAWING	PS	PARKING SPACE		
DIP	DUCTILE IRON PIPE	PVMT	PAVEMENT		
EA	EACH	PERF	PERFORATED		
E	EAST	PUMP	PUMP/CHLORINATOR		
ELEC	ELECTRIC	PEPE	PLAIN END IN PLAIN END		
ELEV	ELEVATION	PSF	POUNDS PER SQUARE FOOT		
ERCP	ELLIPTICAL REINFORCED CONCRETE PIPE	PC	POINT OF CURVATURE		
ENCSE	ENCLOSURE	PI	POINT OF INTERSECTION		
ENT	ENTRANCE	PRC	POINT OF REVERSE CURVE		
EQUIP	EQUIPMENT	PT	POINT OF TANGENCY / PRESSURE TREATED		
EXIST	EXISTING	PVI	POINT OF VERTICAL INTERSECTION		
EJ	EXPANSION JOINT	PVC	POLYVINYL CHLORIDE PIPE		
		PPM	POST INDICATOR VALVE		
FOC	FACE OF CURB	PSF	POUNDS PER SQUARE FOOT		
FT	FEET	PSI	POUNDS PER SQUARE INCH		
FPS	FEET PER SECOND	P	POWER		
FF	FINISH FLOOR	PP	POWER POLE		
FHA	FIRE HYDRANT ASSEMBLY	PL	PROPERTY LINE		
FLGFL	FLANGED JOINT BY FLANGED JOINT				
FLGPE	FLANGED JOINT BY PLAIN END	R	RADIUS		
FLR	FLOOR	RED	REDUCER		
FL	FLOW LINE	REF	REFERENCE		
FTG	FOOTING	RCAP	REINFORCED / REINFORCEMENT		
FM	FORCE MAIN	RCP	REINFORCED CONCRETE PIPE		
FDN	FOUNDATION	REQ'D	REQUIRED		
FUT	FUTURE	REV	REVISED / REVISION		
FDEP	FLORIDA DEPT OF ENVIRONMENTAL PROTECTION	RPM	REVOLUTIONS PER MINUTE		
FDOT	FLORIDA DEPARTMENT OF TRANSPORTATION	ROW	RIGHT OF WAY		
FRP	FIBER REINFORCED POLYMER	RD	ROAD		
		RT	RIGHT		

LEGEND

NOTE:

DESCRIPTION	NEW	EXISTING
BUILDING OR STRUCTURE		
CONCRETE WALK OR CURB		
ASPHALT PAVEMENT		
VERTICAL CURB		
CURB & GUTTER		
DEMOLITION OR REMOVAL		
SANITARY SEWER & MANHOLE		
FORCE MAIN		
SANITARY SEWER w/CLEANOUT		
STORM DRAIN		
CURB INLET		
STORM DRAIN INLET		
CULVERT W/MITERED END SECTION		
CULVERT W/MITERED END SECTION		
WATERLINE		
WATER LINE W/METER		
WATERLINE W/ELBOWS		
FIRE WATER		
RECLAIM WATER		
GATE VALVE		
CHECK VALVE		
FIRE HYDRANT W/VALVE		
FIRE DEPARTMENT CONNECTION		
POST INDICATOR VALVE		
LIMITS OF CONSTRUCTION		
GAS LINE		
POWERLINE		
TELEPHONE		
UNDERGROUND ELECTRIC		
UNDERGROUND COMMUNICATION		
CONTOURS		
SPOT ELEVATION		
SWALE OR FLOW DIRECTION		
FENCE		
PROPERTY LINE		
CENTER LINE		
TREE		
RAILROAD TRACK		
GUARD RAIL		
RECREATION LAKE		
SILT FENCE		
TURBIDITY BARRIER		
SOIL BORING		
BENCHMARK		

SYMBOLS AND LEGEND

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
A / A	SECTION LETTER / WHERE DRAWN	100'-0" / V ELEV	ELEVATION POINT OF REFERENCE
2 / C	DETAIL NUMBER / WHERE DRAWN		BENCHMARK/ WORK POINT

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ISSUE FOR CONSTRUCTION

DOCUMENT HISTORY

REV	DATE	DESCRIPTION
1	11/07/19	CONFORMED SET

INTERCOASTAL WATERWAY PARK
Hwy 520 Causeway Hubert Humphrey Brg.
Merritt Island, FL 32953
BREVARD COUNTY PARKS & REC

DESIGNED BY T.MONTEMAYOR FL PE68425

DRAWN BY T.MONTEMAYOR

CHECKED BY D'ENAMORADO

PROJECT NUMBER C0719.05 00 US-001 - INTERCOASTAL CWG

DATE 04/17/19

TITLE LEGEND AND ABBREVIATIONS

DRAWING NO. G-002

GENERAL NOTES:

DESCRIPTION OF WORK

1. PROJECT BASE BID SCOPE INCLUDES REMOVAL, EXECUTION AND DISPOSAL OF EXISTING WOODEN DOCK MATERIALS INCLUDING DECKING, GUARDRAIL FRAMING, HARDWARE AND DEBRIS. IT ALSO INCLUDES INSTALLATION, TEMPORARY STORAGE AND RE-INSTALLATION OF EXISTING PIER RAILINGS. ADDITIONALLY, (1) REPLACEMENT OF EXISTING WOOD FRAMING, INCLUDING GUARDRAILS; (2) INSTALLATION OF CONCRETE PERIMETER CURB AT TOP OF TWELVE (12) PILES; (3) PARTIAL REMOVAL AND INSTALLATION OF METAL CLEATS TO SECURE THE EXISTING FLOATING DOCK IN PLACE; (4) SITE GRADING WITHIN AN ENCLOSED ZONE WITHIN THE SOUTH DOCK AREA. PIER CONTRACT REQUIREMENTS: ALL REPAIRS ARE ALLOWED AS AN ALLOWANCE BUT NO CONSTRUCTION IS PLACED WITHIN THE LIMITED FOOTPRINT OF THE ORIGINAL DOCK STRUCTURE. WOOD FRAMING ENHANCEMENTS ARE NOT INCLUDED AS PART OF THE SCOPE. REFER TO CONSTRUCTION NOTES ON THIS SHEET FOR ADDITIONAL INFORMATION.

GENERAL CONSTRUCTION NOTES

2. DESIGN IS BASED ON THE FLORIDA BUILDING CODE, FBC 2017

3. ALL MATERIALS AND WORKMANSHIP SHALL COMPLY WITH PROJECT DRAWINGS AND SPECIFICATIONS

4. THE CONTRACTOR SHALL VERIFY ALL EXISTING DIMENSIONS AND CONDITIONS PRIOR TO ISSUING BIDS OR ORDERING ANY MATERIALS AND SHALL NOTIFY THE ENGINEER IF DIFFERENT FROM WHAT IS SHOWN ON THE DRAWINGS

5. THE CONTRACTOR SHALL WORK STRUCTURAL DRAWINGS TOGETHER WITH CIVIL DRAWINGS TO PLAN WORK. ANY DISCREPANCIES SHALL BE CALLED TO THE ATTENTION OF THE ENGINEER BEFORE PROCEEDING WITH THE WORK.

6. THE STRUCTURAL INTEGRITY OF THE COMPLETED STRUCTURE DEPENDS UPON THE SATISFACTION OF VARIOUS CONNECTED COMPONENTS. PROVIDE ADEQUATE BRACING, SHORING, AND/OR TIE TEMPORARY SUPPORTS AS REQUIRED DURING CONSTRUCTION TO SAFELY COMPLETE THE WORK.

7. THE CONTRACTOR SHALL REVIEW THESE DRAWINGS AND VISIT THE PROJECT SITE BEFORE CONSTRUCTION BEGINS TO COMPARE ALL EXISTING CONDITIONS WITH WHAT IS SHOWN ON THESE DRAWINGS. IF THERE ARE CONDITIONS WHICH ARE DIFFERENT FROM WHAT IS SHOWN, THE STRUCTURAL ENGINEER OF RECORD SHALL BE NOTIFIED.

8. THE CONTRACTOR SHALL ARRANGE A PRE-CONSTRUCTION MEETING WITH THE ARCHITECT/ENGINEER TO ENSURE THAT THE CONTRACTOR'S UNDERSTANDING OF THESE DRAWINGS AND PLANS FOR THE WORK IS IN ACCORDANCE WITH THE DESIGN INTENT AND TO CLARIFY ANY QUESTIONS THAT THE CONTRACTOR MAY HAVE.

9. ALL DETAILS AND SECTIONS SHOWN ON THE DRAWINGS ARE INTENDED TO BE TYPICAL AND SHALL BE CONSTRUED TO APPLY TO ANY SIMILAR SITUATION ELSEWHERE ON THE PROJECT EXCEPT WHERE A DIFFERENT DETAIL IS SHOWN.

10. CONTRACTOR SHALL SUBMIT FOR REVIEW AND APPROVAL WOOD FRAMING SHOP DRAWINGS AND INFORMATION THAT CONFIRMS QUALITY OF ALL MATERIALS AS STATED ON THE CONTRACT DOCUMENTS PRIOR TO WOOD FRAMING WORK (TIMBER AND/OR ANY INFORMATION ON OTHER DRAWINGS FOR ADDITIONAL REQUIREMENTS)

11. IN ORDER TO EXPEDITE REVIEW OF SUBMITTALS AND AVOID THE NEED FOR RE-SUBMITTALS THEY SHALL BE COMPLETE WITH ALL NECESSARY INFORMATION

12. CONTRACTOR SHALL REVIEW SUBMITTALS THOROUGHLY BEFORE SUBMITTING FOR REVIEW AND APPROVAL. UNREVIEWED SHOP DRAWINGS BY CONTRACTOR SHALL BE REJECTED AND RETURNED.

13. CONTRACTOR SHALL BE RESPONSIBLE FOR THE COORDINATION BETWEEN SHOP DRAWINGS AND DRAWINGS OF DIFFERENT TRADES. ANY FIELD FAILURES AS A RESULT OF THE LACK OF SUCH COORDINATION SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR.

14. ALL CONCRETE WORK SHALL COMPLY WITH PROVISIONS OF ACI 318, ACI 318, ACI 301, AND THE FLORIDA BUILDING CODE LATEST EDITIONS.

DESIGN LOADS

15. THE DESIGN INTENT IS TO RESTORE THE ORIGINAL CONDITION OF THE WOOD DOCKS BEFORE DAMAGE PER CONTRACT REQUIREMENTS. STRUCTURAL ENHANCEMENT ARE NOT PART OF PROJECT SCOPE. DESIGN FOLLOWS GENERAL PROVISIONS OF THE BUILDING CODE

DEMOLITION AND CLEARING

16. ALL ITEMS INDICATED TO BE DEMOLISHED AND NOT CLAIMED BY THE OWNER OR INDICATED TO BE TEMPORARILY STORED SHALL BECOME THE PROPERTY OF THE CONTRACTOR AND SHALL BE DISPOSED OUTSIDE OF BREVARD COUNTY PROPERTY IN COMPLIANCE WITH APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS

17. PROTECT TREES & VEGETATION OUTSIDE THE LIMITS OF CONSTRUCTION. ANY DAMAGE TO EXISTING VEGETATION SHALL BE REPLACED BY CONTRACTOR AT NO ADDITIONAL COST TO OWNER

18. THE CONTRACTOR SHALL COORDINATE WITH OWNER AND ENGINEER TO MINIMIZE THE EXTENT CLEARING AND DISTURBED IN COMPLIANCE WITH THE APPROVED CONSTRUCTION PLANS

19. ALL AREAS OUTSIDE THE LIMITS OF CONSTRUCTION THAT ARE DISTURBED BY THE CONSTRUCTION SHALL BE RESTORED TO THEIR ORIGINAL CONDITION (INCLUDING ROADWAYS, SWALES, DRIVEWAYS, AND VEGETATION) AT NO ADDITIONAL COST TO THE OWNER

20. CONTRACTOR IS RESPONSIBLE FOR INSPECTING BOTTOM ALONG DOCK DEMOLITION AREAS AND REMOVING ANY DEBRIS REMAINING AT THE COMPLETION OF DEMOLITION ACTIVITIES. DEBRIS REMOVAL AND DISPOSAL SHALL FOLLOW ALL LOCAL, STATE, AND FEDERAL REGULATIONS. CONTRACTOR SHALL SUBMIT CERTIFICATION THAT INDICATES ALL DEBRIS WAS REMOVED AS BASIS FOR ACCEPTANCE OF WORK COMPLETION.

SITE CLEAN

21. PRIOR TO THE START OF CONSTRUCTION, THE CONTRACTOR SHALL OBTAIN THE SERVICES OF A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF FLORIDA TO LAY OUT AND FIELD STAKE THE CONSTRUCTION SITE. ANY DISCREPANCIES SHALL BE IMMEDIATELY BROUGHT TO THE ENGINEER'S ATTENTION

22. THE CONTRACTOR IS RESPONSIBLE FOR ESTABLISHING HORIZONTAL AND VERTICAL CONTROL FOR SITE CONSTRUCTION. ANY DISTURBED SURVEY MONUMENTATION SHALL BE REPLACED BY A SURVEYOR LICENSED IN THE STATE OF FLORIDA AT NO ADDITIONAL COST TO THE OWNER

23. ALL TRAFFIC CONTROL DEVICES SHALL MEET THE REQUIREMENTS OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS, PUBLISHED BY THE U.S. DEPARTMENT OF TRANSPORTATION AND FEDERAL HIGHWAY ADMINISTRATION AND/OR D.O.T. ROADWAY AND TRAFFIC DESIGN STANDARDS

24. THE CONTRACTOR SHALL PROVIDE APPROPRIATE STORAGE AND LAYDOWN AREAS, SAFETY MARKERS & BARRICADES, TEMPORARY FENCING, ETC. AS REQUIRED TO MAINTAIN JOB SITE SAFETY

MAINTENANCE OF TRAFFIC (MOT)

25. THE CONTRACTOR IS RESPONSIBLE TO PREPARE ANY NECESSARY M.O.T. PLAN(S) AND OBTAIN APPROVAL (S) AS REQUIRED FROM DESIGN STANDARDS, LATEST EDITION INDEX 600 AND 660 FOR TWO LANE, TWO WAY WORK SHOULDER

INSPECTIONS

26. REFER TO SURVEY DRAWINGS FOR EXISTING SITE CONDITIONS INFORMATION

27. IN THE EVENT OF ANY DISCREPANCIES IN TRADE SHEETS OF THE CONTRACT DOCUMENTS OR BETWEEN THE CONTRACT DOCUMENTS AND APPLICABLE STANDARDS, CODES AND ORDINANCES, THE CONSTRUCTION SHALL PROVIDE THE BETTER QUALITY AND/OR GREATER QUANTITY OF WORK OR COMPLY WITH THE MORE STRINGENT REQUIREMENT, EITHER OR BOTH AS DIRECTED IN ACCORDANCE WITH THE ENGINEER'S INTERPRETATION. DETAIL DRAWINGS TAKE PRECEDENCE OVER GENERAL DRAWINGS. ANY WORK SHOWN ON ONE DRAWING SHALL BE CONSTRUED TO BE SHOWN IN ALL DRAWINGS AND THE CONTRACTOR SHALL COORDINATE THE WORK IN ALL DRAWINGS. IF ANY PORTION OF THE CONTRACT DOCUMENT SHALL BE IN CONFLICT WITH ANY OTHER PORTION, THE VARIOUS DOCUMENTS COMPRISING THE CONTRACT DOCUMENTS SHALL GOVERN IN THE FOLLOWING ORDER OF PRECEDENCE: THE OWNER CONTRACT AGREEMENT, MODIFICATIONS, ADDENDA, SUPPLEMENTARY CONDITIONS, THE GENERAL CONDITIONS, THE SPECIFICATIONS, THE DRAWINGS AS BETWEEN THEMSELVES, AND FIGURED DIMENSIONS SHOWN ON DRAWINGS SHALL GENERALLY GOVERN, AS BETWEEN LARGE SCALE DRAWINGS AND THE SCALE MEASUREMENTS THEREFROM SHALL GOVERN, AS BETWEEN LARGE SCALE DRAWINGS AND SMALL SCALE DRAWINGS, THE LARGER SCALE SHALL GOVERN. ANY INCONSISTENCY OR AMBIGUITY IN THE CONTRACT DOCUMENTS SHALL BE SUBMITTED TO THE ENGINEER WHOSE DECISION THEREON SHALL BE FINAL AND CONCLUSIVE.

28. ALL WORK SHALL BE EXECUTED IN FULL COMPLIANCE WITH LOCAL, STATE, AND FEDERAL LAWS GOVERNING WORKER SAFETY AND PUBLIC HEALTH.

29. ALL WORK SHALL CONFORM TO LOCAL, STATE, AND FEDERAL RULES PERTAINING TO PROTECTION OF THE ENVIRONMENT.

30. THE CONTRACTOR SHALL SUBMIT A PLAN FOR TEMPORARY CONSTRUCTION PARKING, TRAILER, AND MATERIAL LAY DOWN FOR APPROVAL BY THE OWNER'S REPRESENTATIVE REFER TO DRAWINGS FOR EXISTING LAY DOWN AREA

31. THE CONTRACTOR SHALL ENSURE THAT ACCESS TO ACTIVE PARK OPERATIONS IS MAINTAINED.

32. ALL REQUIRED PERMITS SHALL BE OBTAINED PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE CONTRACTOR SHALL KEEP A COPY OF ALL PROJECT PERMITS AND APPROVED DRAWINGS ONSITE

33. CONTRACTOR SHALL COORDINATE WITH THE OWNER REGARDING CONSTRUCTION HOURS OF OPERATION AND NECESSARY MEASURES TO ENSURE PUBLIC SAFETY. IT IS EXPECTED CONSTRUCTION OPERATIONS WILL BE LIMITED TO NORMAL BUSINESS HOURS (BETWEEN 7am AND 6pm, MONDAY THROUGH FRIDAY)

34. CONTRACTOR SHALL MAINTAIN EMERGENCY VEHICLE AND PEDESTRIAN ACCESS AT ALL TIMES DURING CONSTRUCTION

WOOD NOTES

35. WOOD FRAMING MEMBERS SHALL BE IDENTIFIED BY THE GRADE MARK OF AN AGENCY CERTIFIED BY THE BOARD OF REVIEW OF THE AMERICAN LUMBER STANDARD COMMITTEE, ESTABLISHED UNDER THE US DEPARTMENT OF COMMERCE'S VOLUNTARY PRODUCT STANDARD PS 20

36. FOR STRUCTURAL LUMBER (NOMINAL) THE FOLLOWING GRADE, BRANDS & TREATMENT

36.1 2x6, 2x8 & 2x10 DECK AND GUARDRAIL FRAMING, GRADE SELECT STRUCTURAL, SOUTHERN PINE. DECK FRAMING MEMBERS SHALL BE TREATED WITH WATERBORNE PRESERVATIVES IN ACCORDANCE WITH AWPA STANDARD U1, COMMODITY SPECIFICATION A, TO THE REQUIREMENTS OF USE CATEGORY 4B (UC4B)

36.2 2x10 AND 2x12 DECK FRAMING, No.2 DENSE SOUTHERN PINE. PIER FRAMING MEMBERS SHALL BE TREATED WITH WATERBORNE PRESERVATIVES IN ACCORDANCE WITH AWPA STANDARD U1, COMMODITY SPECIFICATION A, TO THE REQUIREMENTS OF USE CATEGORY 4B (UC4B)

36.3 ALL LUMBER SHALL BE KD OR AIR DRIED AFTER PRESERVATIVE TREATMENT. MARK EACH PIECE WITH THE AWPA QUALITY MARK AS CERTIFICATION OF COMPLIANCE WITH THE SPECIFIED STANDARD REQUIREMENTS

37. RODS USED AT WOOD CONNECTIONS SHALL BE MIN. 3/4" DIAMETER U.N.O.

38. ALL NAILS SHALL BE COMMON NAILS, ROUND-SHANK NAILS OF COMMON NAIL DIAMETER UNLESS NOTED OTHERWISE

39. SCREWS SHALL BE 316SS. REFER TO DRAWINGS FOR SPECIAL PRODUCT INTERFACES

CONSTRUCTION BIDS

40. BASE BIDS SHALL INCLUDE ALL MATERIALS, LABOR, EQUIPMENT AND INCIDENTALS NECESSARY TO COMPLETE THE WORK INDICATED ON THE CONTRACT DOCUMENTS

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BREVARD COUNTY PARKS & REC

T MONTEMAYOR
FL P0085925

T MONTEMAYOR

D ENAMORADO

C6758S 65/00-001 - INTERCOASTAL DWG

01/17/19

GENERAL NOTES

G-003

PHOTO 1

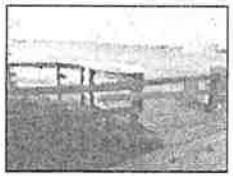
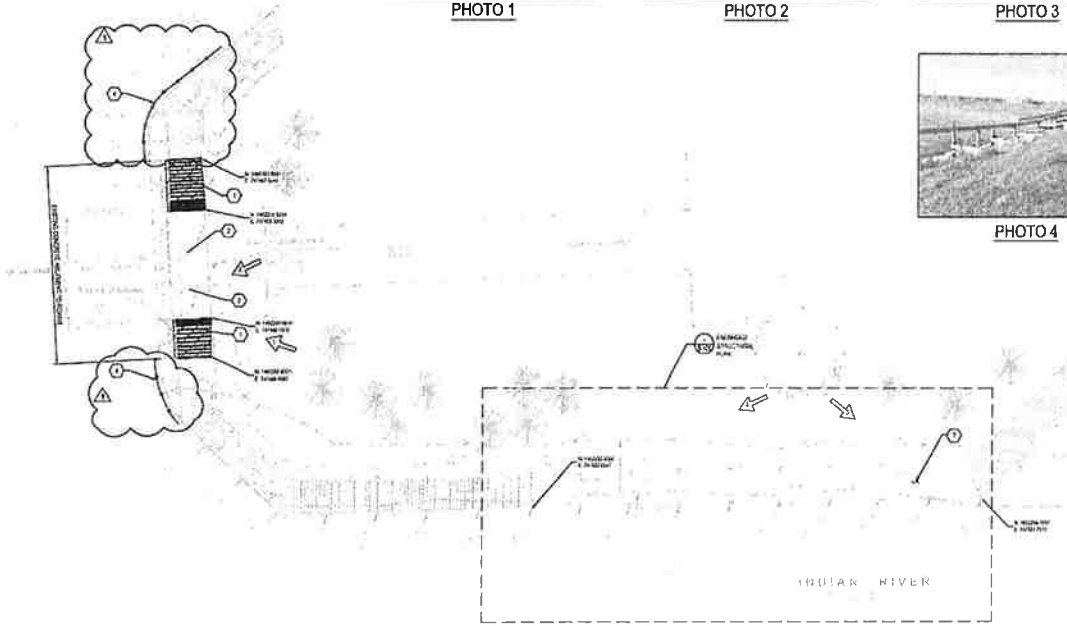


PHOTO 2

PHOTO 3

PHOTO 4



SOUTH DEMOLITION PLAN

SCALE: 1" = 10'

NOTES:

1. SITE INFORMATION SHOWN ON THIS DRAWING IS BASED ON THE FOLLOWING SURVEYS: [SEE ATTACHED] AND ALIGNATES [ZONE NO. 19-16] DATED OCT. 9, 2018

   THE INFORMATION REFLECTS GENERAL CONDITIONS AT THE TIME MEASUREMENTS WERE MADE. SITE CONDITIONS MIGHT HAVE CHANGED SINCE THE SURVEY WAS COMPLETED.

   REFER TO DWGS. [FOR] SURVEY INFORMATION

   CONTRACTOR IS RESPONSIBLE FOR MEASURING THE SITE AND DETERMINING EXISTING CONDITIONS TO BE USED AS BASIS FOR ANY CONSTRUCTION BIDS. USE OF THE PROVIDED INFORMATION IS AT THE CONTRACTOR'S SOLE RISK AND SHALL NOT BE GROUNDS FOR ANY REQUEST FOR ADDITIONAL COMPENSATION.

   DRAWING INDICATES ELEVATIONS AT TOP OF THE EXISTING WOOD DOCK PLANKS (T) AND BOTTOM OF PILES. TOPOGRAPHIC ELEVATIONS SHOWN ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 1988).

   HORIZONTAL LOCATION COORDINATES ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM (EAST ZONE) NAD 1983.

2. REFER TO DEMOLITION NOTES ON THIS SHEET FOR ADDITIONAL INFORMATION.

3. THE CONDITION OF THE EXISTING WOOD PILES HAS NOT BEEN VERIFIED IT IS REASONABLE FOR CONTRACTOR TO INCLUDE WOOD MEMBER CUTTING COSTS TO ALLOW REMOVAL OF PIER COMPONENTS. WOOD PILES MIGHT BE UNSTABLE IN SUCH SHALLOW CONDITIONS. DEMOLITION ACTIVITY MUST BE POSSIBLE WITHOUT ANY AND WITHOUT CONSTRUCTION THAT ENSURE FOUNDATIONS ARE FULLY DEMOLISHED.

4. ALL ITEMS INDICATED TO BE REMOVED AND DISPOSED SHALL BE LEGALLY REMOVED OFFSITE PER LOCAL, STATE AND FEDERAL REGULATIONS.

KEYNOTES ⓘ:

1. [illegible] WOOD PILES AS SHOWN. REMOVE ENTIRE PILE AND ALL DEBRIS. BACKFILL HOLE WITH CLEAN SAND AND COMPACT TO 95% DENSITY.
2. SAWCUT ASPHALT PAVEMENT AS SHOWN. REMOVE ASPHALT AND BASE AS REQUIRED FOR NEW CONSTRUCTION. PROTECT EXISTING PAVEMENT TO REMAIN.
3. REMOVE WOOD FRAMING AND HARDWARE. SEE DRAWING A-101 FOR [illegible]

LEGEND:

- DIRECTION OF PHOTO
- GEOLOGIC DEMOLITION, NO IMPACT TO EXISTING PILLS
- TURBIDITY BARRIER

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[illegible]

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Merritt Island, FL 32953
BREVARD COUNTY PARKS & REC

T. MONTEMAYOR
FL PE#59425

T. MONTEMAYOR

R. OBERLE

CD1805 0D1M3-101 = INTRACOASTAL DWG

01/17/19

SOUTH DEMOLITION PLAN

D-101

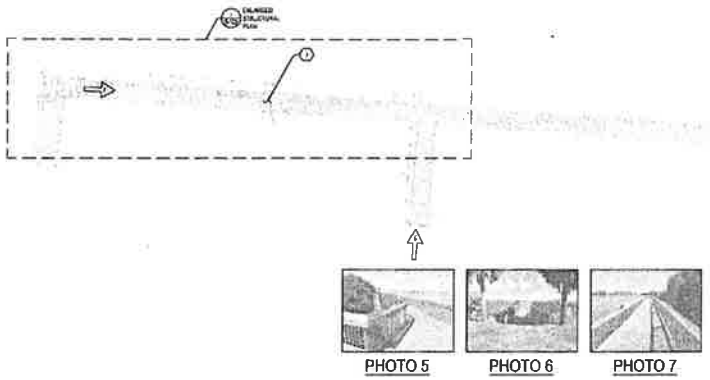

PHOTO 5 PHOTO 6 PHOTO 7

NORTH DEMOLITION PLAN

NOTES:

1. SITE INFORMATION SHOWN ON THIS DRAWING IS BASED ON THE FOLLOWING SURVEYS: R.M. PACKARD AND ASSOCIATES JOB NO. 18-181 DATED OCT 5, 2018

   THE INFORMATION REFLECTS GENERAL CONDITIONS AT THE TIME MEASUREMENTS WERE TAKEN. SITE CONDITIONS MIGHT HAVE CHANGED SINCE THE SURVEY WAS COMPLETED.

   REFER TO PAGE G1.21 FOR SURVEY INFORMATION.

   CONTRACTOR IS RESPONSIBLE FOR MEASURING THE SITE AND DETERMINING EXISTING CONDITIONS TO BE USED AS BASIS FOR ANY CONSTRUCTION WORK. USE OF THE PROVIDED INFORMATION IS AT THE CONTRACTOR'S SOLE RISK AND SHALL NOT BE GROUNDS FOR ANY NEGLECT FOR ADDITIONAL CONFIRMATION.

   DRAWING INDICATES ELEVATIONS AT TOP OF THE EXISTING WOOD DECK PLANKS AND BOTTOM OF DECK. TOPOGRAPHIC ELEVATIONS SHOWN ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 1988).

   HORIZONTAL LOCATION COORDINATES ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM (EAST ZONE) NAD 1983.

2. REFER TO DEMOLITION NOTES ON DWG. G-001 FOR ADDITIONAL INFORMATION.

3. DUE CONDITION OF THE EXISTING WOOD PLANKS AND BOARDS WHICH IT IS REASONABLE FOR CONTRACTOR TO INCLUDE WOOD MEMBER CUTTING COSTS TO ALLOW REMOVAL OF PIER COMPONENTS. WOOD PIERS MIGHT BE UNSTABLE IN THEIR CURRENT CONDITION. CONTRACTOR IS FULLY RESPONSIBLE FOR MEANS AND METHODS OF CONSTRUCTION THAT ENSURE PERSONNEL SAFETY DURING CONSTRUCTION.

4. ALL ITEMS INDICATED TO BE REMOVED/DEMOLISHED SHALL BE REMOVED OFFSITE (OUTSIDE REFUGE AND COUNTY PROPERTY).

KEYNOTES ⓘ:

1. SEE STRUCTURAL FOR SCOPE

0 10' 20' 40' 80'
SCALE: 1" = 20'

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INTERCOASTAL WATERWAY PARK
Hwy 520 Causeway Hubert Humphrey Brg.
Merritt Island, FL 32953
BREVARD COUNTY PARKS & REC

DESIGNED BY
T.MONTEMAYOR
FL PE#59425

DRAWN BY
T.MONTEMAYOR

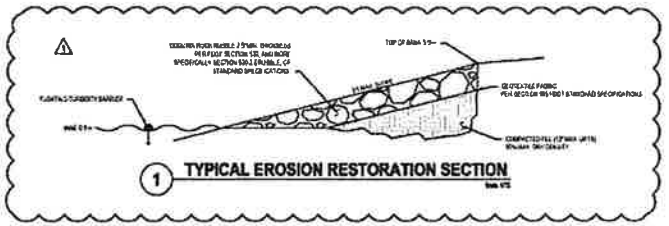
CHECKED BY
R. OBERLE

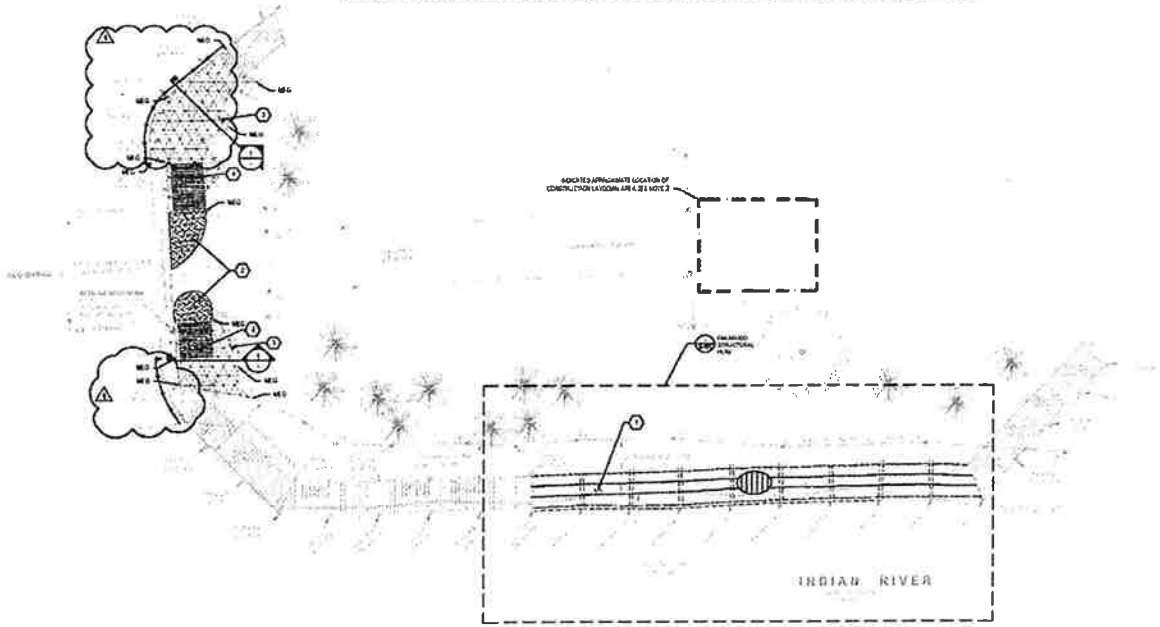
PROJECT NUMBER
007585 001.B-101 - INTRACOASTAL.DWG

DATE
01/17/19

TITLE
NORTH DEMOLITION PLAN

DRAWING NO.
D-102





SOUTH SITE PLAN

SCALE: 1" = 10'

NOTES:

1. [illegible] SHOWN ON THIS DRAWING BASED ON THE FOLLOWING SURVEY: R.W. PACKARD AND ASSOCIATES DATED 10-16-18 AND DATED OCT 1, 2018.

   THE INFORMATION REFLECTS GENERAL CONDITIONS AT THE TIME MEASUREMENTS WERE TAKEN. SITE CONDITIONS MAY HAVE CHANGED SINCE THE SURVEY WAS COMPLETED.

   REFER TO SURVEY FOR SURVEY INFORMATION.

2. CONTRACTOR IS RESPONSIBLE FOR MEASURING THE SITE AND DETERMINING EXISTING CONDITIONS TO BE USED AS BASIS FOR ANY CONSTRUCTION. USE OF THE PROVIDED INFORMATION AT THE CONTRACTOR'S SOLE RISK AND SHALL NOT BE GROUNDS FOR ANY RELIEF FOR ADDITIONAL COMPENSATION.

3. TOPOGRAPHIC ELEVATIONS SHOWN ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM, 1988 (NAVD 1988).

   HORIZONTAL LOCATION COORDINATES ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM (EAST ZONE), NAD 1983.

4. CONSTRUCTION LAYDOWN AREA IS AS SHOWN ON THE DRAWINGS. THE EXTENTS OF THIS AREA DURING CONSTRUCTION SHALL BE COORDINATED WITH THE OWNER. THE EXTENTS OF THE LAYDOWN AREA MAY BE ORIGINALLY ADJUSTED AS MORE PRECISE MAPS BASED ON OWNER'S OPERATIONAL REQUIREMENTS.

5. SITE ACCESS SHALL BE LIMITED ON ZONE C-ISS FOR SITE ACCESS RESTRICTIONS AND LIMITATIONS DURING CONSTRUCTION.

KEYNOTES ⓘ:

1. [illegible] SEE STRUCTURAL DRAWING S-101 FOR WOOD FRAMING DETAILS.
2. UNDER THE EASTERN ASPHALT ROAD AREA, PROVIDE A REMOVABLE FLOWABLE FILL PER SECTION 121 FDOT STANDARDS AND SPECIFICATIONS TO FILL VOID AREAS. CONTRACTOR TO EXCAVATE APPROXIMATE AREAS AS NOTED FOR PLACING FILL UNDER THE EXISTING ASPHALT AREA ONLY AS ACCESSIBLE WITH THE FDOT STANDARDS AND SPECIFICATIONS.
3. PROVIDE COMPACTED FILL AS SHOWN AT AREAS OF SLOPE STABILIZATION. OVER COMPACTED SUBGRADE FILL, PROVIDE 2.5' OF ADDITIONAL GOOMA ROCK RUBBLE COVER OVER THAT IN THE INDICATED AREAS. SEE TYPICAL SECTION THIS DRAWING.
4. RE-INSTALL REMOVED DECKING AFTER SLOPE STABILIZATION AND GOOMBA ROCK HAS BEEN PLACED.

LEGEND:

VOID AREA UNDER EXISTING ASPHALT ROAD TO BE FILLED VIA FLOWABLE FILL

SLOPE FILL TO MATCH EXISTING AND STABILIZATION WITH GOOMBA

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BREVARD COUNTY PARKS & REC

FLORIDA LICENSED LANDSCAPE ARCHITECT — LICENSE — STATE OF FLORIDA

SEAL OF REGISTERED LANDSCAPE ARCHITECT
JASON LEE ABBOTT PE
FL PE-66-4313

DRAWN BY
J ABBOTT

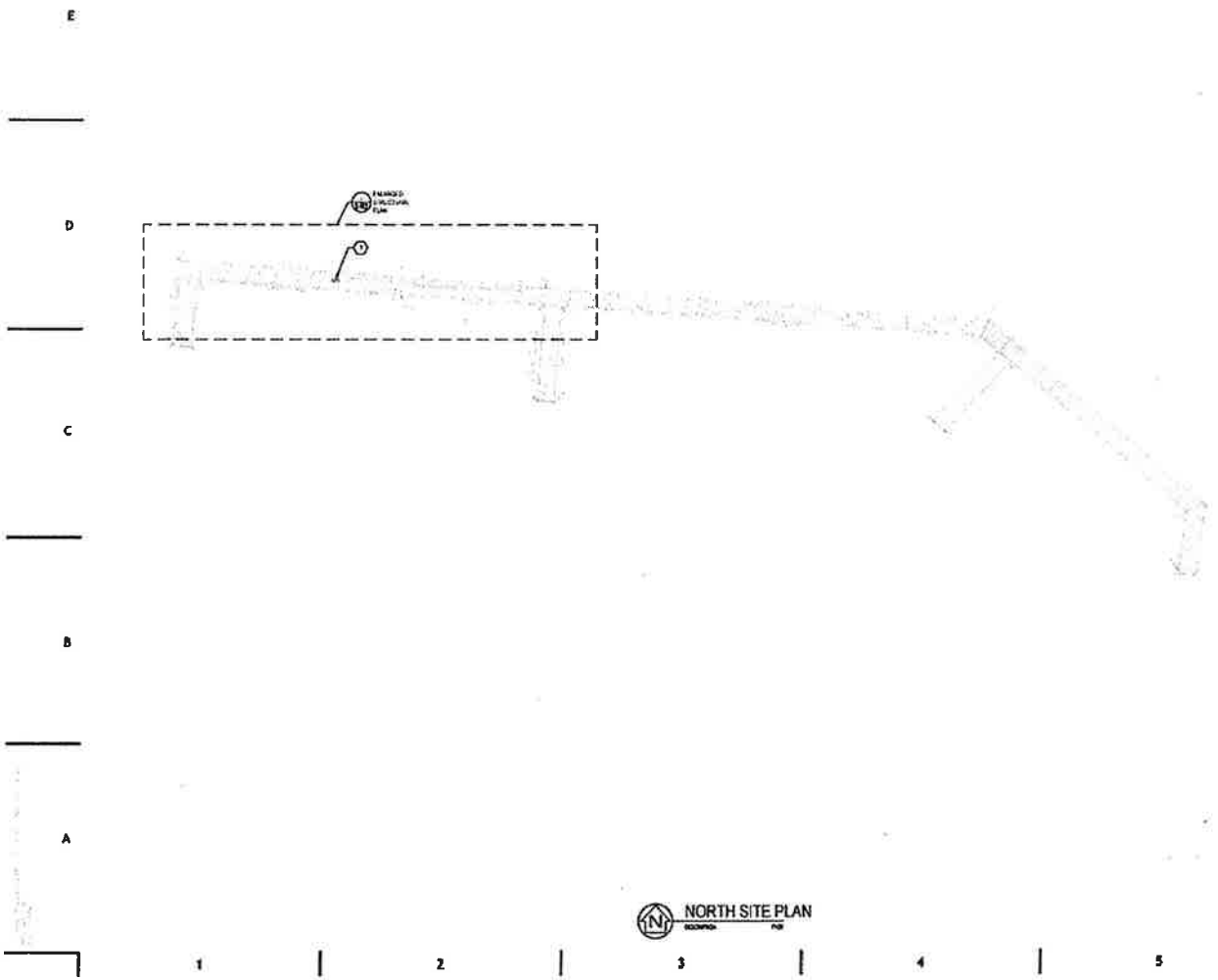
CHECKED BY
R OBERLE

PROJECT NUMBER
C07566.05-UC-121 - INTRACOASTAL.DWG

DATE
01/17/19

TITLE
SOUTH SITE PLAN

SHEET NUMBER
C-101



NOTES:

1. SITE INFORMATION SHOWN ON THIS DRAWING IS BASED ON THE FOLLOWING SURVEY: © BY RADA-MASTRONARDI ASSOCIATES DATED NO. 16-063 DATED OCT. 5, 2016

   THE INFORMATION REFLECTS GENERAL CONDITIONS AT THE TIME MEASUREMENTS WERE TAKEN. SITE CONDITIONS MAY HAVE CHANGED SINCE THE SURVEY WAS COMPLETED.

   REFER TO CIVIL SHEET FOR SURVEY INFORMATION

   CONTRACTOR IS RESPONSIBLE FOR MEASURING THE SITE AND DETERMINING EXISTING CONDITIONS TO BE USED AS BASIS FOR ANY CONSTRUCTION. BASE USE OF THE PROVIDED INFORMATION AS IS. THE CONTRACTOR'S SOLE RISK AND SHALL NOT BE GROUNDS FOR ANY REQUEST FOR ADDITIONAL COMPENSATION

   ELEVATIONS AND LOCATIONS SHOWN ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM, 1988 (NAVD 1988).

   HORIZONTAL LOCATION COORDINATES ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM (EAST ZONE) - NAD 1983

2. CONSTRUCTION LAYDOWN AREA IS AS SHOWN ON THIS DRAWING. THE EXTENTS OF THIS AREA MAY CONSTRUCTION SHALL BE COORDINATED WITH THE OWNER THE EXTENTS OF THE LAYDOWN AREA WILL BE ORIGINALLY ACCEPTED AS WORK PROGRESSES BASED ON ADDITIONAL REQUIREMENTS.

3. SITE ACCESS - REFER TO NOTES ON DWG. G-003 FOR SITE ACCESS RESTRICTIONS AND LIMITATIONS DURING CONSTRUCTION

KEYNOTES⊙:

1. EXISTING WOOD DOCK. SEE STRUCTURAL DRAWINGS S-101 FOR WOOD FRAMING REPAIRS.

NORTH SITE PLAN

SCALE: 1"=30'

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BREVARD COUNTY PARKS & REC

JASON LEE ABBOTT PE
FL PE#64213

J. ABBOTT

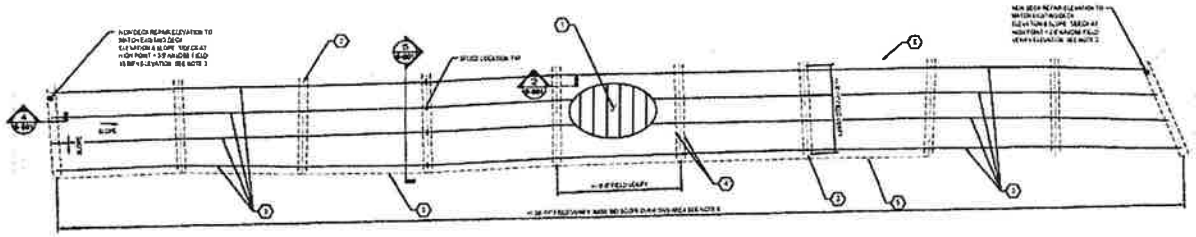
R. OBERLE

C0719/5 00 UIC-121 - INTRACOASTAL CMPD

01/17/19

NORTH SITE PLAN

C-102



SOUTH DOCK FRAMING PLAN

0" 2" 4" 6" 8" 10" 12"
1/4" = 1'-0"

NOTES:

1. EXISTING SITE CONDITIONS SHOWN ON THIS DRAWING ARE BASED ON THE FOLLOWING SURVEY BY THE PREVARD AND ASSOCIATES (JOB NO. 18-185) DATED OCT. 3, 2018

   THE INFORMATION REFLECTS GENERAL CONDITIONS AT THE TIME MEASUREMENTS WERE TAKEN. SITE CONDITIONS MIGHT HAVE CHANGED SINCE THE SURVEY WAS COMPLETED.

   REFER TO SURVEY DRAWINGS FOR INFORMATION

   CONTRACTOR IS RESPONSIBLE FOR VERIFYING THE SITE AND DETERMINING EXISTING CONDITIONS PRIOR TO BID AS BRPH CAN NOT GUARANTEE ACCURACY OR USE OF THE PROVIDED INFORMATION AS AT THE CONTRACTOR'S SOLE RISK AND SHALL NOT BE GROUNDS FOR ANY REQUEST FOR ADDITIONAL COMPENSATION.

2. REFER TO WOOD FRAMING NOTES ON DWG. G-003 FOR ADDITIONAL INFORMATION.

3. FIELD VERIFY ELEVATIONS WHERE SHIM PLANE CONSTRUCTION SHALL SURVEY EXISTING DECK ELEVATIONS. SUBMIT PROPOSED FRAMING LAYOUT BASED ON FIELD VERIFIED DIMENSIONS FOR REVIEW AND APPROVAL PRIOR TO PURCHASING MATERIALS. DESIGN INTENT IS FOR NEW FRAMING TO FOLLOW SLOPE OF EXISTING STRUCTURE.

4. ALL DIMENSIONS TO BE FIELD VERIFIED

5. PROJECT BASE BID SCOPE INCLUDES REMOVAL, DEMOLITION AND DISPOSAL OF EXISTING FRONT ONE OF WOODEN DOCK PILINGS, DECKING AND ALL FRAMING, DEBRIS AND ASSEMBLY AND REPAIRS WITHIN THE EXISTING EQUIPMENT OF THE ORIGINAL SCOPE. REMOVAL AND REPAIRS TO TIMBER PILINGS ARE NOT INCLUDED AS PART OF THE PROJECT SCOPE PER CONTRACT REQUIREMENTS. REPAIRS ARE ABLE AT ALL LOCATIONS EXISTING COMPONENTS WIND STRUCTURAL ENGINEERING ARE NOT INCLUDING AS PART OF THE SCOPE. REFER TO 4/S-102 AND 5/S-102 FOR MISC. WORK SCOPE ITEMS.

KEYNOTES ⓘ:

1. 2x8 WOOD PLANKS ON FLAT TYPICAL. LOCK REF ELEV = VARIES SEE PLAN
2. EXISTING TIMBER PILES, ONE MINIMUM AMCA TYP. 20 PLACES.
3. 2x12 WOOD FRAMING TYP EACH BAY.
4. 2x12 WOOD FRAMING CONNECTED TO PILES TYP.
5. GUARD RAIL FRAMING TO BE REMOVED AND REPLACED SEE DETAIL 1/S-102
6. EXISTING GUARDRAIL FRAMING TO BE REMOVED AND REPLACED

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BREVARD COUNTY PARKS & REC

T MONTEMAYOR
FL PE#84425

T MONTEMAYOR

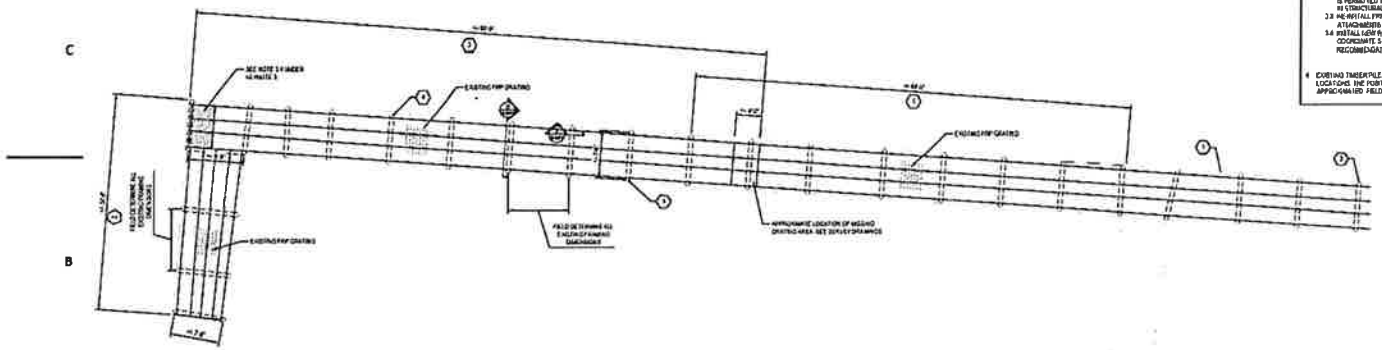
D ENAMORADO

0501905.00-VS-120 - INTRACOASTAL.DWG

01/17/19

SOUTH FRAMING PLAN

S-101



NORTH FRAMING PLAN

0' 4' 8' 16' 24'
1/8" = 1'-0"

NOTES:

1. EXISTING SITE INFORMATION SHOWN HAS BEEN BASED ON THE FOLLOWING SURVEYS: R.W. PRIDMORE AND ASSOCIATES, LOG NO. 16-180, DATED OCT. 5, 2016

   THE INFORMATION REFLECTS GENERAL CONDITIONS AT THE TIME MEASUREMENTS WERE TAKEN. SITE CONDITIONS MIGHT HAVE CHANGED SINCE THE SURVEY WAS COMPLETED

   REFER TO SURVEY DRAWINGS FOR INFORMATION.

   CONTRACTOR IS RESPONSIBLE FOR REVIEWING THE SITE AND DETERMINING EXISTING CONDITIONS TO BE USED AS BASIS FOR ANY CONSTRUCTION. ANY USE OF THE PROVIDED INFORMATION IS AT THE CONTRACTOR'S SOLE RISK AND SHALL NOT BE CHARGED FOR ANY REQUEST FOR ADDITIONAL COMPENSATION

2. REFER TO WOOD FRAMING NOTES ON DWG G-001 FOR ADDITIONAL INFORMATION

3. SIDEON = MATCH EXISTING DESIGN INTENT (S FOR NEW FRAMING TO FOLLOW EXISTING STRUCTURE GEOMETRY

4. ALL DIMENSIONS TO BE FIELD VERIFIED

5. PROJECT BASE BID SCOPE INCLUDES REMOVAL/DEMOLITION AND DISPOSAL OF EXISTING DAMAGED PORTIONS OF WOODEN DECK INCLUDING ALL FRAMING, DEBRIS, IRREPARABLE FRP GRATING AND REPAIRS WITHIN THE EXISTING FOOTPRINT OF THE DECKING. DECK REPAIR OF DAMAGED TIMBER PILINGS IS INCLUDED AS PART OF PROJECT SCOPE. ADDITION OF TIMBER PILINGS IS NOT INCLUDED PER CONTRACT REQUIREMENTS. REPAIRS ARE AIMED AT REPLACING EXISTING COMPONENTS IN-KIND. STRUCTURAL ENHANCEMENTS ARE NOT INCLUDED AS PART OF THE SCOPE

6. ALL FRP GRATING THAT IS REMOVED SHALL BE REVIEWED TO PATCH ANY GAPS OF 2" D MEASURED GRATE PANELS EXCESS FRP GRATING SHALL BE STORED ON BREVARD COUNTY PROPERTY PER BREVARD COUNTY STANDARDS

KEYNOTES ⓘ:

1. WORK AREA 1 - GUARD RAIL IS DAMAGED TO BE REPAIRED/REPLACED SEE DETAIL 2/S-302 OC TO FIELD DETERMINE EXTENT OF GUARD RAIL TO BE REPAIRED/REPLACED
2. WORK AREA 2: PILE TO BE REMOVED SEE DETAIL 2/S-502 CONTRACTOR TO VERIFY EXACT PILE LOCATION IN FIELD
3. WORK AREA 1 COMPLETE THE FOLLOWING WORK TASK
   - 3.1 REMOVE EXISTING FRP GRATING AND TEMPORARILY STORE ONSITE. CONTRACTOR IS RESPONSIBLE FOR SECURING MATERIALS DURING CONSTRUCTION
   - 3.2 RE-USE/REPLACE IN KIND FRAMING (VERIFY JOIST SIZE IN FIELD) IT IS PERMITTED TO USE EXISTING BEAMS IF THEY ARE SALVAGEABLE AND IN STRUCTURALLY SOUND CONDITIONS SEE DETAIL 4/S-501
   - 3.3 RE-INSTALL FRP GRATING AS SHOWN SEE DETAIL 4/S-502 FOR ATTACHMENTS
   - 3.4 INSTALL NEW INLEAR DECK COMPOSITE DECK OR APPROVED EQUAL COORDINATE STYLE & COLOR W/ OWNER. INSTALL PER MFR RECOMMENDATIONS
4. EXISTING TIMBER PILE. REFER TO SURVEY DRAWINGS FOR MEASURED PILE LOCATIONS. THE POSITION FOR MAJORITY OF PILES SHOWN HAS BEEN APPROXIMATED. FIELD MEASURE AND VERIFY AS NEEDED

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321 254 7666 | 321 259 4062 F

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ISSUE FOR CONSTRUCTION

DOCUMENT HISTORY

REV	DATE	DESCRIPTION
0	1/17/19	CONSTRUCTION

INTERCOASTAL WATERWAY PARK

Hwy 520 Causeway Hubert Humphrey Bvg.
Merritt Island, FL 32953

BREVARD COUNTY PARKS & REC

DRAWN BY
T.MONTEMAYOR
FL PE#84426

REVIEWED BY
T.MONTEMAYOR

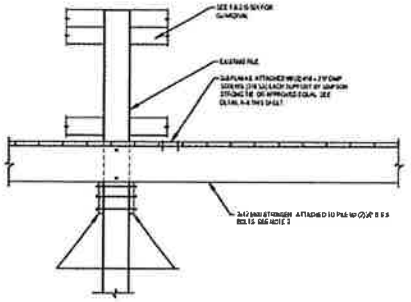
CHECKED
D.ENAMORADO

PROJECT NUMBER
C07685.00 98-131 - INTRACOASTAL.DWG

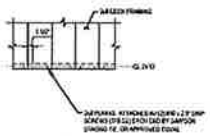
DATE
01/17/19

TITLE
NORTH FRAMING PLAN

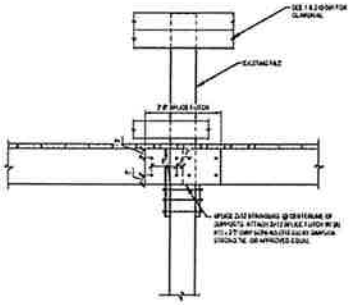
DRAWING NO.
S-102



1 FRAMING ELEVATION



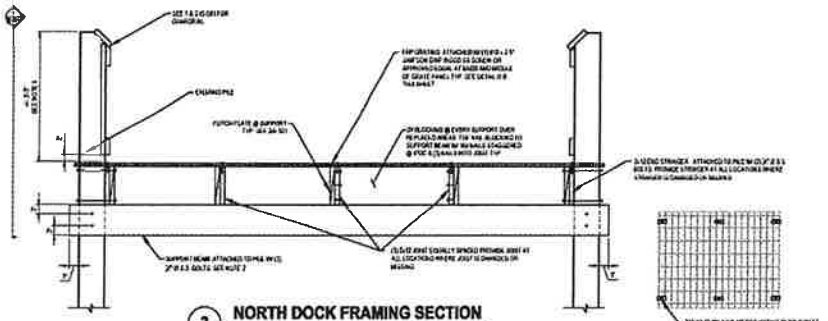
A-A



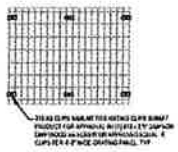
2 END JOIST SPLICE DETAIL

NOTES:

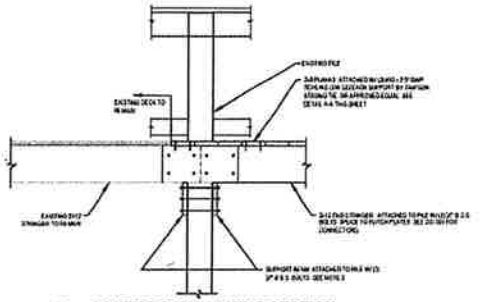
1. REFER TO GENERAL NOTES FOR ADDITIONAL INFORMATION
2. INCLUDE 316 S.S. NUTS AND 3" SQUARES BY 1/4" THICK CB WASHERS EACH END, EACH ROD TYP
3. NOT USED
4. DIMENSIONS MAY REFER TO SURVEY DIAGRAMS FOR EXISTING STRUCTURE DIMENSIONS (4/SQFT WIDTH @ 10 MIN RAIL GUARDRAIL MARKING AT THE ORIGINAL LOCATIONS. FIELD VERIFY DIMENSIONS AND INSTALL FRAMING AS INDICATED



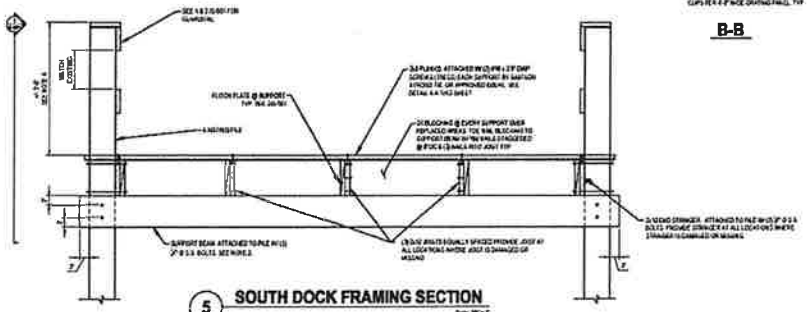
3 NORTH DOCK FRAMING SECTION



B-B



4 SOUTH DOCK FRAMING SECTION



5 SOUTH DOCK FRAMING SECTION

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ISSUE FOR CONSTRUCTION

DOCUMENT HISTORY

REV	DATE	DESCRIPTION
1	12/19/19	CONFORMED SET

INTERCOASTAL WATERWAY PARK
Hwy 520 Causeway Hubert Humphrey Brg.
Merritt Island, FL 32953
BREVARD COUNTY PARKS & REC

SIGNED BY
T.MONTEMAYOR
FL PE#64425

DESIGNED BY
T.MONTEMAYOR

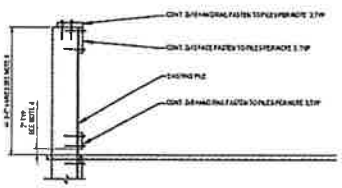
DRAWN BY
D ENAMORADO

PROJECT NUMBER
057565 0016-501 - INTERCOASTAL.DWG

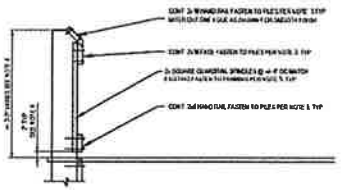
DATE
01/17/19

TITLE
FRAMING DETAILS

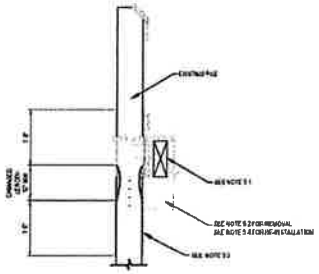
DRAWING NO.
S-501



1 SOUTH DOCK FRAMING SECTION



2 NORTH DOCK FRAMING SECTION



3 PILE REPAIR DETAIL

NOTES:

1. REFER TO GENERAL NOTES FOR ADDITIONAL INFORMATION
2. INCLUDE 1 SS 65 WATS AND 3" SQUARE BY 0" MIN THICKNESS WASHERS EACH END, EACH ROD TYP
3. FASTEN FRAMING USING (2) #10 x 2.5" DWP SCREWS (TYP 5) EACH END BY SIMPSON STRONG TIE OR APPROVED EQUAL
4. DIMENSIONS VARY. REFER TO SURVEY DRAWINGS FOR EXISTING STRUCTURE DIMENSIONS. DESIGN INTENT IS TO INSTALL GUARDRAIL FRAMING AT THE ORIGINAL LOCATIONS. FIELD VERIFY DIMENSIONS AND INSTALL FRAMING AS INDICATED
5. PILE REPAIR SEQUENCE: CONTRACTOR RESPONSIBLE FOR MEANS & METHODS. THE SUGGESTED SEQUENCE IS PRESENTED WITH THE INTENT OF MINIMIZING DAMAGE TO THE EXISTING STRUCTURE DURING REPAIRS. CONTRACTOR SHALL RETAIN SERVICES FROM A QUALIFIED ENGINEER TO DETERMINE AND DESIGN REPAIR PROCEDURES
   5.1 INSTALL TEMPORARY FRAMING TO SUPPORT THE EXISTING DECK FRAMING SHALL EXISTING AND BE SUPPORTED ON THE TIMBER PILE SUPPLEMENT TO DAMAGED PILE LOCATION
   5.2 REMOVE FRAMING AND TEMPORARILY STORE ON SITE FOR RE-INSTALLATION
   5.3 INSTALL FIBERGLASS REPAIR JACKET. INSTALL PER MFR INSTRUCTIONS
   5.4 DRILL NEW HOLES AND RE-INSTALL WOOD FRAMING THROUGH THE FIBERGLASS JACKETS. USE NEW BOLTS AS SHOWN ON DETAIL

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ISSUE FOR CONSTRUCTION

DOCUMENT HISTORY

REV	DATE	DESCRIPTION
0	01/17/19	CONFORMED CDs

INTERCOASTAL WATERWAY PARK
Hwy 520 Causeway Hubert Humphrey Bldg.
Merritt Island, FL 32953
BREVARD COUNTY PARKS & REC

T MONTESMAYOR
FL PE#86428

T.MONTESMAYOR

ID ENAMORADO

C07565 00 18-501 - INTERCOASTAL.DWG

01/17/19

FRAMING DETAILS

S-502

3/4" = 1'-0"

ATTACHMENT "E"

CONTRACTOR'S PRELIMINARY CONSTRUCTION SCHEDULE

Project No 1800240400
BC Waterway Park Dock and Walkway Repair

Estimate Type: Estimate Status: In Process
1/24/2019

Item Description	Qty	Unit	Unit Price	Extended Amount
0				
CSI Division 0 - General Conditions				
Project Manager	80	hrs	70.06	5,604.80
Project Manager Vehicle	.75	month(s)	800.00	600.00
Project Manager Phone	.75	allowance	70.00	52.50
Project Superintendent	522	hrs	45.01	23,495.22
Project Superintendent Phone	3	month(s)	70.00	210.00
Project Superintendent Vehicle	3	month(s)	800.00	2,400.00
	CSI Division 0 - General Conditions Total			32,362.52
CSI Division 1 - General Requirements				
Portalet	3	month(s)	125.00	375.00
	CSI Division 1 - General Requirements Total			375.00
CSI Division 3 - Concrete				
Grout Under asphalt paving @ bridge approach Drawing C-101	1	ls	20,000.00	20,000.00
	CSI Division 3 - Concrete Total			20,000.00
CSI Division 6 - Wood and Plastics				
Dock Work	1	ls	157,997.00	157,997.00
	CSI Division 6 - Wood and Plastics Total			157,997.00
			Subtotal	210,734.52
Notes			Estimated Cost Subtotal	210,734.52
			General Liability @ 0.30%	632.20
			Professional Liability @ 0.20%	421.47
			Subtotal	211,788.19
			Overhead @ 6.00%	12,707.29
			Subtotal	224,495.48
			Fee @ 10.00%	22,449.55
			Subtotal	246,945.03
			Contingency	0.00
			Pre-construction/Design	0.00
			Subtotal	246,945.03
			Bond @ 1.10%	2,716.40

Item Description	Qty	Unit	Unit Price	Extended Amount
			Total	249,661.43

ATTACHMENT "F"

ORDINANCE 98-37

AN ORDINANCE AMENDING CHAPTER 2 OF THE BREVARD COUNTY CODE TO CREATE ARTICLE VII, A PROCEDURE FOR PREQUALIFYING CONSTRUCTION CONTRACTORS, FOR COMPETITIVE BIDDING CRITERIA AND FOR DEBARMENT OF CONSTRUCTION CONTRACTORS AND SURETIES; PROVIDING FOR ALTERNATIVE CONSTRUCTION DELVERY METHODS; PROVIDING FOR PREQUALIFCATION AND COMMPETITIVE BIDDING CRITERIA, PROCEDURE, AND FOR A STANDARD OF PROOF; PROVIDING FOR EDITING OF THE ORDINANCE FOR INCLUSION WITHIN THE BREVARD COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 255.20, Fla. Stat. (1997) requires that standards and procedures for determining the lowest qualified and responsive bidder or award of a construction contract under and delivery method be established if a bidder is selected for any reason other than price; and

WHEREAS, the Board has determined that it is in the public's best interest to provide such standards and procedures so that the Board may select the most qualified and responsive bidder; and

WHEREAS, the Board has determined that is in the public's best interest to prevent construction firms and sureties who have defaulted on a previous contract with the County from future bidding on County projects through a debarment procedure;

THEREFORE, be it ordained by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1: Chapter 2 of the Brevard County Code shall be amended to create Article VII as follows:

a. DEFINITIONS: The following words shall have these meanings throughout this article:

"AFFECTED PARTY" means an individual or business which has submitted a bid, offer, proposal, quotation, or response which is rejected, or is found unqualified under the provisions of this article, or which would be selected if a low bidder was found unqualified or nonresponsive.

"BOARD" means the Board of County Commissioners of Brevard County, Florida.

"COMMITTEE" means two or more persons designated to evaluate prequalification and responsiveness criteria. Committees established by the County Manager may be intradepartmental, or include representatives of several departments interested in the administration and success of the construction project.

"DEBARMENT" means the exclusion for cause of a vendor or contractor, or subcontractor from bidding or doing business with the County on a temporary or permanent basis.

"MINOR IRREGULARITY" means a variation from the Invitation to Bid which does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders, or does not adversely impact the interests of the agency.

"QUALIFIED BIDDER" means an individual or business which has submitted a bid, offer, proposal, quotation, or response, which has the capability in all respects to fully perform the contract requirements, and has the financial stability, honesty, integrity, sill, business judgement, experience, facilities and reliability necessary to give reasonable assurance of good faith and performance.

"REQUEST FOR QUALIFICATION" ("RFQ") means the process by which the County may prequalify individuals or businesses for a particular project before request5ing bids for the project, thereby limiting the pool of bidders to these prequalified.

"RESPONSIVE BIDDER" means an individual or business which has submitted a bid, offer, proposal, quotation, or response, which conforms in all material respects to the solicitation, including but not limited to compliance with the submittal of specified insurance and bond requirements.

1. Any County Contract for the construction or improvement of a public building, structure, or other public construction wor5k that is estimated in accordance with general accounting principles to have construction costs of more than fifty thousand dollars ($50,000.00) shall be competitively awarded to the lowest, qualified and responsive bidder in accordance with this article, unless the project (1) fits within exceptions set for in s. 255.20, Fla. Stat., as amended from time to time, (2) is a contract governed by the Consultant's Competitive Negotiation Act, or (3) is awarded under another contract delivery method authorized by this article. Nothing in this article shall be construed to require competitive award of every County construction work, not to prohibit the Board from rejecting all bids if competitively bid, or to prevent the board from waiving minor irregularities in any bid.

2. (a) Potential lump sum bidders responding to a request for qualifications are required to submit information required by this article and as identified in the RFQ package. A committee identified in the RFQ package will determine whether a potential bidder is qualified and responsive as defined in this article.

   (b) For projects advertised for lump sum bid without prior prequalification, the apparent low bidder, after the formal bid opening, will be required to submit the following prequalification information identified in the bid package within five (5) business days after the bid opening. Failure to provide prequalification information within this time frame may be considered as grounds for finding the apparent low bidder nonresponsive. If the apparent low bidder cannot provide adequate documents for review, or the submitted documents indicate the apparent low bidder or any subcontractors are not qualified, or if the bidder's package is determined to be nonresponsive, the Committee will reject the bidder or any of its subcontractors. In the event the bidder is found unqualified or non-responsive, the apparent second low bidder will be contacted and afforded the previous mentioned five (5) days to submit pre-qualification

documents. This process will continue until the lowest qualified and responsive bidder is established. In the even that a subcontractor is found unqualified or non-responsive, the potential bidder or prime contractor will have five (5) business days to submit a substitute subcontractor for the same bid price or withdraw the original bid.

(c) In addition to lump sum contracts for construction, the Board may use the following delivery methods for construction or improvement of a public building, structure, or other public construction work: construction manager, design/build, or continuing contracts based on unit prices. The Board may also enter into continuing contracts with construction managers using the pre-qualification procedure set forth herein for potential lump sum bidders. The individual projects shall be awarded under a continuing contract using the following criteria:

> Ability of professional personnel given project's special characteristics; past performance, willingness to meet time and budget requirements; location; recent, current and projected workloads of the firms available under continuing contract; volume of work previously awarded to each firm under a continuing contract provided distribution does not violate the principle of selection of the most qualified firm for the project; previous experience on County Projects.

The County Manager will establish procedures for the Board to hear any affected party with a complaint or appeal as to any recommendation or finding made pursuant to this article. Any affected party's complaint or appeal must be presented, in writing, to the County Manager's Office within five (5) business days of the posting of a committee's decision.

(d) At the completion of each competitively awarded County construction project, the County department which administered the construction contract shall complete an evaluation of the contractor's performance on a form to be established by the County Manager. The department may also complete evaluations of critical subcontractors using the same form. All such records shall be copied to the party evaluated and maintained by County Purchasing. Any party evaluated may submit a written response of any length, which response shall be filed with the evaluation.

3. Potential bidders, the apparent lowest bidder, or the person providing services under any other contract delivery method, and applicable subcontractors identified in the bid or request for qualification package for any County construction project which is to be competitively awarded shall be evaluated to determine whether the bidder and its subcontractors are qualified. In evaluating qualifications, the County shall consider the following information:

   - A Contractor's Pre-Qualification Statement for the prime contractor and subcontractors performing parts of work identified in the bidding documents as critical to the project's success. The Pre-Qualification Statement shall be provided on a form to be established by the County Manager;

   - Most current financial statement, but not more than one (1) year old, indication of bondability, or if project is under $100,000, other evidence of financial capability as identified in the bid documents;

   - Resumes of Contractor and Subcontractor's key personnel, including project manager and superintendent levels, showing job history, education related to work to be performed and any license, training, and experience related to the work which that individual will perform;

- List of subcontractors and suppliers, and items of work to be performed by the Contractor's own work force;

- County evaluations of the performance on County Projects;

- References obtained from individuals or businesses with whom the contractor or subcontractor has performed work or conducted business;

- Any other relevant qualifications, data or information identified in the bidding documents to be critical to the success of the project.

4. The County Manager will establish committees which may debar a contractor, contractor's key personnel, contractor's surety, subcontractor and subcontractor's key personnel, or any entity which key personnel are later employed or retained by in a supervisory position, from bidding on any County project under the circumstances enumerated below. The decision to disbar is discretionary, the seriousness of the offense and all mitigating factors should be considered in making the decision to disbar. The notice of debarment shall state the time when such debarment will be lifted, if ever, and the contractor's right to appeal such debarment to the Board of County Commissioners under the Board's regular agenda. The Board reserves the power to waive or lift any committee imposed suspension or debarment.

   An individual or business may be permanently debarred for any of the following reasons:

   Conviction or a judgment obtained in a court of competent jurisdiction for:
   - Commission of a fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;
   - Violation of any Federal or State of Florida anti-trust or anti-racketeering statutes arising out of submission of bids or proposals;
   - Commission of embezzlement, theft, forgery, bribery, falsification of or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a County contractor, subcontractor or vendor;
   - If the conviction or judgment is reversed on appeal, the debarment shall be removed upon receipt of notification thereof.

   Competent and substantial evidence of a violation of a County contractor provision, as set forth below, when the violation is of a character so as to justify debarment action such as:
   - Failure to perform in accordance with the specifications or delivery requirements in a contract;
   - A history of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts; provided, that such failure or unsatisfactory performance is within a reasonable period of time preceding the determination to debar. Failure to perform for unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered as a basis of debarment.

Upon adequate evidence, an individual or business may be temporarily debarred for a period up to three (3) years based upon substantial evidence of involvement in any of the causes cited in paragraph (b) above.

Section 2: Inclusion in Code: It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Brevard County Code; and that the sections of

this ordinance may be renumbered or relettered to accomplish such intentions.
Section 3: Severability: If any provision of this ordinance is held to be illegal or invalid, the other provision shall remain in full force and effect.

Section 4: Effective Date: This ordinance shall become effective upon filing as provided by law. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment.

ATTACHMENT "G"

PUBLIC CONSTRUCTION BOND

BY THIS BOND, We _____ as Principal and _____, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called County, in the sum of _____ ($_____), for payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Promptly makes payments to all claimants, as defines in Section 255.05(1), Florida Statutes, supply Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract dated _____, between Principal and County for construction of _____, the contract being attached hereto and made part of this bond by reference, in such time and without delay, and in the manner prescribed in the contract; and
2. Pays County all losses, damages, expenses, costs and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the contract, then this bond is void; otherwise it remains in full force. Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract does not affect Surety's obligation under this bond.

Signed and sealed this _____ day of _____, 2019.

Witness: Principal Seal

_____ Its:_____

Title:_____

Witness: Surety Seal

_____ Its:_____

Title:_____

ATTACHMENT "H"

PUBLIC CONSTRUCTION PERFORMANCE BOND

BY THIS BOND, We _____ as Principal and _____, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called County, in the sum of _____ ($_____), for payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Performs promptly, completely and faithfully the contract dated _____, between Principal and County for construction of _____, the contract being attached hereto and made part of this bond by reference, in such time and without delay, and in the manner prescribed in the contract including the delivery, execution and performance of any warranty work required by the contract; and
2. Pays County all losses, damages, expenses costs and attorney's fees, including appellate proceedings, that County sustains because of default by Principal under the contract; and
3. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract does not affect Surety's obligation under this bond.

Signed and sealed this _____ day of _____, 2019.

Witness: Principal Seal

_____ Its:_____

Title:_____

Witness: Surety Seal

_____ Its:_____

Title:_____

Heard Construction, Inc.
95 East Hall Road (32953)
PO Box 510218
Merritt Island, FL 32954
Ph 321-452-5494 Fax 321-452-6946

Transmittal

Transmittal #

Brevard County - Parks & Recreation
2725 Judge Fran Jamieson Way, Bldg. B, Suite 203
Viera, FL 32940

Phone 633-2050 **Fax** 633-2051

Sent Via Hand Delivered

Project No: 1800240400	**Date:** 12/12/2018
Attention: Michael Butcher	
Reference: BC Waterway Park Dock and Walkway Repair	
Subject: Proposal	

We are sending you ○ Attached ○ Under separate cover ○ Cover Only

The following ☐ Shop drawings ☐ Plans/Specifications ☐ Copy of letter ☐ RFI ☐ Certification ☐ Submittal ☐ Prints ☐ Samples ☐ Change order ☐ Data ☐ Plans ☒ Other

Copies	Dated	No	Description
2	2-7-2019		Executed Contract

These are transmitted as follows

◉ For approval ○ As requested ○ Approved as submitted ○ Returned for corrections
○ For your use ○ For review and comment ○ Approved as noted ○ For your information

Remarks

Please return completely executed contract. I have ordered the Performance and Payment Bonds.

File:

Signed Lu Anne Woodley

ATTACHMENT "I"

CONTRACTOR'S GUARANTEED MAXIMUM PRICE

Project No 1800240400
BC Waterway Park Dock and Walkway Repair

Estimate Type: Estimate Status: In Process
1/24/2019

Item Description	Qty	Unit	Unit Price	Extended Amount
0				
CSI Division 0 - General Conditions				
Project Manager	80	hrs	70.06	5,604.80
Project Manager Vehicle	.75	month(s)	800.00	600.00
Project Manager Phone	.75	allowance	70.00	52.50
Project Superintendent	522	hrs	45.01	23,495.22
Project Superintendent Phone	3	month(s)	70.00	210.00
Project Superintendent Vehicle	3	month(s)	800.00	2,400.00
	CSI Division 0 - General Conditions Total			32,362.52
CSI Division 1 - General Requirements				
Portalet	3	month(s)	125.00	375.00
	CSI Division 1 - General Requirements Total			375.00
CSI Division 3 - Concrete				
Grout Underasphaltpaving @ bridge approach Drawing C-101	1	ls	20,000.00	20,000.00
	CSI Division 3 - Concrete Total			20,000.00
CSI Division 6 - Wood and Plastics				
Dock Work	1	ls	157,997.00	157,997.00
	CSI Division 6 - Wood and Plastics Total			157,997.00
			Subtotal	210,734.52
Notes			Estimated Cost Subtotal	210,734.52
			General Liability @ 0.30%	632.20
			Professional Liability @ 0.20%	421.47
			Subtotal	211,788.19
			Overhead @ 6.00%	12,707.29
			Subtotal	224,495.48
			Fee @ 10.00%	22,449.55
			Subtotal	246,945.03
			Contingency	0.00
			Pre-construction/Design	0.00
			Subtotal	246,945.03
			Bond @ 1.10%	2,716.40

Item Description	Qty	Unit	Unit Price	Extended Amount
			Total	249,661.43

ATTACHMENT "J"

CERTIFICATE OF SUBSTANTIAL COMPLETION

CERTIFICATE OF SUBSTANTIAL COMPLETION
AIA DOCUMENT G704

Owner	☐
Architect	☐
Contractor	☐
Field	☐
Other	☐

PROJECT:
(Name & Address)

PROJECT NO:

CONTRACT FOR:
CONTRACT DATE:

TO OWNER:
Brevard County Board of County Commissioners
Parks and Recreation Department
2725 Judge Fran Jamieson Way, Building "B"
Viera, Florida 32940

TO CONTRACTOR:
(Name & Address)

DATE OF ISSUANCE:

PROJECT OR DESIGNATED PORTION SHALL INCLUDE:

Repair, replace and upgrade the fire alarm system to meet minimum requirements in order to provide adequate protection of County assets and comply with all codes at the County Service Complex – Titusville (9 Buildings).

The work performed under this contract has been reviewed and found, to the Architect's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

In accordance with Florida Statute 255.40, the Owner requires that the Contractor certify that to the best of his/her knowledge and ability no asbestos-containing materials and/or supplies have been purchased and/or installed on this Project. By signing below, the Contractor acknowledges this.

The date of Substantial Completion of the Project or portion thereof designated above is hereby established as _____

which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

Engineer	By	Date

The Contractor will complete or correct the Work on the list of items attached hereto within _____ days from the above date of Substantial Completion.

Contractor	By	Date

The Owner accepts the Work or designated portion thereof as substantially complete and will assume full possession thereof at 8:00 a.m. (time) on June 25, 2004 (date).

Brevard County B.O.C.C. Parks and Recreation Department Owner	By:	Date

The responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance shall be as follows:

(Note - Owner's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage.)

ATTACHMENT "K"

CERTIFICATE OF FINAL COMPLETION

PROJECT NO. & TITLE:_____

ARCHITECT:_____ CONTRACTOR:_____

CONTRACT DATE:_____ DATE OF FINAL COMPLETION:_____

CERTIFICATE OF ARCHITECT/ENGINEER

Based on my inspections and investigation of the Contractor's work under the above referenced contract, I certify that the work, in general, has been completed in accordance with the contract documents, that all matters previously brought to the Contractor's attention as incomplete or defective have been resolved pursuant to my direction, and that the Contractor has submitted the attached sworn affidavit as evidence that the Contractor has paid all labor, materials, and other charges against the project in accordance with the terms of the Contract.

A/E FIRM NAME:_____ BY:_____

(BELOW TO BE COMPLETED BY ARCHITECT/ENGIEER):

THROUGH THE SUBSTANTIAL COMPLETION PHASE: DATE:_____ DAYS:_____

1. Notice to Proceed (NTP):
2. Time Specified in Original Contract for Substantial Completion (SC):
3. Extension granted by Change Order: (days between original contract SC and Final Contract SC)
4. Total Days Allowable to Substantial Completion: (add lines 2 and 3)
5. Project Substantially Completed as Certified by A/E:
6. Substantial Completion Overrun: (subtract line 4 from 5 and enter overrun)

THROUGH THE FINAL COMPLETION PHASE: DATE:_____ DAYS:_____

1. Time Specified in Contract, between SC and Final Completion (FC):
2. Extensions granted by Change Orders: (Days between SC and FC)
3. Total Days allowable between SC and FC: (add lines 1 and 2)
4. Date Actually Completed and Total Days between and Date Certified by A/E as actually being FC:
5. Final Completion Overrun (subtract line)

Architect:_____ Date:_____

Project Manager:_____ Date:_____

ATTACHMENT "L"

ALLOWABLE COSTS, OVERHEAD

Description of estimated quantity, unites, unit cost, budget value, quantity to date, quantify to compensate for Office Phones, Office Supplies, Postage, Gas/Oil/Lubrication, Automobiles/Trucks, Project Manager, Estimating Costs, Executive Labor Costs, Assistant Project Manager, In house Secretary, Travel Expenditures, and Warranty Expenses.

Project No 1800240400
BC Waterway Park Dock and Walkway Repair

Estimate Type: Estimate Status: In Process
1/24/2019

Item Description	Qty	Unit	Unit Price	Extended Amount
0				
CSI Division 0 - General Conditions				
Project Manager	80	hrs	70.06	5,604.80
Project Manager Vehicle	.75	month(s)	800.00	600.00
Project Manager Phone	.75	allowance	70.00	52.50
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Project Superintendent Vehicle	3	month(s)	800.00	2,400.00
	CSI Division 0 - General Conditions Total			32,362.52
CSI Division 1 - General Requirements				
Portalet	3	month(s)	125.00	375.00
	CSI Division 1 - General Requirements Total			375.00
CSI Division 3 - Concrete				
Grout Underasphaltpaving @ bridge approach Drawing C-101	1	ls	20,000.00	20,000.00
	CSI Division 3 - Concrete Total			20,000.00
CSI Division 6 - Wood and Plastics				
Dock Work	1	ls	157,997.00	157,997.00
	CSI Division 6 - Wood and Plastics Total			157,997.00
			Subtotal	210,734.52

Notes		
	Estimated Cost Subtotal	210,734.52
	General Liability @ 0.30%	632.20
	Professional Liability @ 0.20%	421.47
	Subtotal	211,788.19
	Overhead @ 6.00%	12,707.29
	Subtotal	224,495.48
	Fee @ 10.00%	22,449.55
	Subtotal	246,945.03
	Contingency	0.00
	Pre-construction/Design	0.00
	Subtotal	246,945.03
	Bond @ 1.10%	2,716.40

Item Description	Qty	Unit	Unit Price	Extended Amount
			Total	249,661.43

ATTACHMENT "M"

GENERAL CONDITIONS

Direct Cost Items: Superintendent, Job Site Secretary/Clerk, Quality Control, Survey, Permits, Impact/Connection Fees, Construction Drawings and Specs, Progress Photographs (if requested by County), Job Site Sign (if requested by County), Special Security (if requested by County), Payment and Performance Bonds, Builders Risk Insurance, Jobsite Trailer and Support (if requested by County), Temporary Utilities (as approved by County), Temporary Jobsite Fencing (Initial Installation Only), and Trash removal/dump fees, and recycling (as approved by the County).

Project No 1800240400
BC Waterway Park Dock and Walkway Repair

Estimate Type: Estimate Status: In Process
1/24/2019

Item Description	Qty	Unit	Unit Price	Extended Amount
0				
CSI Division 0 - General Conditions				
Project Manager	80	hrs	70.06	5,604.80
Project Manager Vehicle	.75	month(s)	800.00	600.00
Project Manager Phone	.75	allowance	70.00	52.50
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Project Superintendent Vehicle	3	month(s)	800.00	2,400.00
		CSI Division 0 - General Conditions Total		32,362.52
CSI Division 1 - General Requirements				
Portalet	3	month(s)	125.00	375.00
		CSI Division 1 - General Requirements Total		375.00
CSI Division 3 - Concrete				
Grout Underasphaltpaving @ bridge approach Drawing C-101	1	ls	20,000.00	20,000.00
		CSI Division 3 - Concrete Total		20,000.00
CSI Division 6 - Wood and Plastics				
Dock Work	1	ls	157,997.00	157,997.00
		CSI Division 6 - Wood and Plastics Total		157,997.00
			Subtotal	210,734.52

Notes

Estimated Cost Subtotal	210,734.52
General Liability @ 0.30%	632.20
Professional Liability @ 0.20%	421.47
Subtotal	211,788.19
Overhead @ 6.00%	12,707.29
Subtotal	224,495.48
Fee @ 10.00%	22,449.55
Subtotal	246,945.03
Contingency	0.00
Pre-construction/Design	0.00
Subtotal	246,945.03
Bond @ 1.10%	2,716.40

Item Description	Qty	Unit	Unit Price	Extended Amount
			Total	249,661.43

ATTACHMENT "N"

CERTIFICATE FOR PAYMENT

APPLICATION AND CERTIFICATE FOR PAYMENT *AIA DOCUMENT G702* (Instructions on reverse side) PAGE ONE OF PAGES

TO (OWNER):

PROJECT:

APPLICATION NO:

Distribution to:
☐ OWNER
☐ ARCHITECT
☐ CONTRACTOR

PERIOD TO:

FROM (CONTRACTOR):

VIA (ARCHITECT):

ARCHITECT'S PROJECT NO:

CONTRACT FOR:

CONTRACT DATE:

CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY			
Change Orders approved in previous months by Owner		ADDITIONS	DEDUCTIONS
TOTAL			
Approved this Month			
Number	Date Approved		
TOTALS			
Net change by Change Orders			

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: _____ Date: _____

Application is made for Payment, as shown below, in connection with the Contract. **Continuation Sheet, AIA Document G703,** is attached.

1. **ORIGINAL CONTRACT SUM** ..... $ _____
2. **Net change by Change Orders** ..... $ _____
3. **CONTRACT SUM TO DATE** (Line 1 ± 2) ..... $ _____
4. **TOTAL COMPLETED & STORED TO DATE** ..... $ _____
   (Column G on G703)
5. **RETAINAGE:**
   a. ____ % of Completed Work $ _____
   (Column D + E on G703)
   b. ____ % of Stored Material $ _____
   (Column F on G703)
   Total Retainage (Line 5a + 5b or Total in Column I of G703) ..... $ _____
6. **TOTAL EARNED LESS RETAINAGE** ..... $ _____
   (Line 4 less Line 5 Total)
7. **LESS PREVIOUS CERTIFICATES FOR PAYMENT** (Line 6 from prior Certificate) ..... $ _____
8. **CURRENT PAYMENT DUE** ..... $ _____
9. **BALANCE TO FINISH, PLUS RETAINAGE** ..... $ _____
   (Line 3 less Line 6)

State of: County of:
Subscribed and sworn to before me this day of ,19
Notary Public:
My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... $ _____
(Attach explanation if amount certified differs from the amount applied for.)
ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

AIA DOCUMENT G702 • APPLICATION AND CERTIFICATE FOR PAYMENT • MAY 1983 EDITION • AIA® © 1983
THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006

G702-1983

CONTINUATION SHEET

AIA DOCUMENT G703 (Instructions on reverse side) PAGE OF PAGES

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER:
APPLICATION DATE:
PERIOD TO:
ARCHITECT'S PROJECT NO:

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D + E + F)	% (G ÷ C)	BALANCE TO FINISH (C − G)	RETAINAGE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
				79					

ATTACHMENT "O"

VENDOR AFFIDATE REGARDING SCRUTINIZED COMPANY LIST

Pursuant to Section 2987.135(2), Florida Statutes, a company is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local government entity for goods or services of $1 million or more if at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company: (1) is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.475, or is engaged in a boycott of Israel; (2) is 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 s. 215.473 or (3) is engaged in business operations in Cuba or Syria.

If the bidder or contractor is found to have falsified the attached affidavit, the Board of County Commissioners of Brevard County may terminate the contract or reject the bid.

STATE OF FLORIDA
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared _____, who, being by me first duly sworn, made the following statement:

1. The Business address of _____ (name of contractor) is _____.
2. My relationship to _____ (name of contractor) is _____ (relationship such as sole proprietor, partner, president, vice president).
3. I understand that "Boycott of Israel" has the same meaning as defined in Section 215.4725, Florida Statutes, and means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. A statement by a company that is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the State Board of Administration to be evidence that a company is participating in a boycott of Israel. The term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel.
4. I understand that "business operations" means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment or any other apparatus of business or commerce.
5. _____ (name of contractor) is not on the

Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.

6. _____ (name of contractor) is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy List, created pursuant to Section 215.473, Florida Statutes.

7. _____ (name of contractor) is not engaged in business operations in Cuba or Syria.

_____
Signature

SWORN to and subscribed before me in the State and County first mentioned above on the _____ Day of _____, 2019.

_____
Notary Public (affix seal)

My Commission Expires:

ATTACHMENT "P"

MINORITY EMPLOYMENT INFORMATION

The Board of County Commissioners requires construction contractors, who would otherwise be required to file an EEO Form 1 Report under Federal Law (currently Federal law requires filing for employers with more than 15 employees), to submit an EEO Form 1 Report with the submission of their GMP. This requirement extends to any subcontractors who are required to submit the EEO Form 1 Report (over 15 employees) under Federal law. Failure to submit an Acknowledgement and/or EEO Form 1 Report with your GMP will be reason to declare your proposal "non-responsive" to the proposal requirements. However, the information will be used for statistical purposes only and will not be used in any way as a basis to award a contract.

Please fill out and sign one (1) of the following statements:

1. My Company or subcontractors are required to submit the EEO Form 1 Report and they are attached.

   Company Name:_____

   Signature:_____ Date:_____

2. My Company or subcontractors are not required to submit the EEO Form 1 Report.

   Company Name:_____

   Signature:_____ Date:_____

Company Name: _____

Company Address: _____

_____

Company Telephone: _____

Signature:_____ Printed:_____

ATTACHMENT "Q"

PUBLIC ENTITY CRIME ACKNOWLEDGMENT

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/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for Category Two ($15,000) for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

NON-COLLUSION AFFIDATE OF PRIME BIDDER

State of Florida
County of Brevard

_____, being duly sworn, deposes and says that:

1. Affiant is _____ of _____, the Bidder that has submitted a bid/quote/proposal;
2. Affiant is fully informed respecting the preparation and contents of the bid/quote/proposal and of all pertinent circumstances respecting such bid/quote/proposal;
3. Such bid/quote/proposal is genuine and is not a collusive or sham bid/quote/proposal;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham bid/quote/proposal in connection with the Contract for which the bid/quote/proposal has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by Contract, or has in any manner, directly or indirectly, sought by the agreement or collusion of communication or conference with any other bidder, firm or person to fix the price or prices in the bid/quote/proposal or of any other Bidder, or to fix any overhead, profit or cost element of the bid/quote/proposal price or the bid/quote/proposal price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Board of County Commissioners of Brevard County, Florida, or any person interested in the contract; and
5. The price or prices negotiated for the bid/quote/proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties of interest, including affiant.

_____
Signature and Title

SWORN to and subscribed before me in the State and County first mentioned above on the _____ Day of _____, 2019.

_____
Notary Public (affix seal)

My Commission Expires:

II.D.3

Brevard County

Parks and Recreation Department

Construction Manager Contract

Tom Statham Park ✓
Dock Replacement

Canaveral Construction Co., Inc.

$493,847

Table of Contents

Article 1 - The Construction Team and Extent of Contract 3

Article 2 - Construction Manager's Responsibilities 6

Article 3 - County's Responsibilities 18

Article 4 - Permitting and Inspection 19

Article 5 - Subcontracts 20

Article 6 - Schedule, Time of Commencement and Substantial Completion 21

Article 7 - Guaranteed Maximum Price for Construction 22

Article 8 - Construction Manager's Fee 23

Article 9 - Cost of the Project 25

Article 10 - Changes in the Project 26

Article 11 - Discounts 31

Article 12 - Payments to the Construction Manager 31

Article 13 - Insurance, Indemnity Waiver of Subrogation 33

Article 14 - Termination of the Contract and County's Right to Perform Construction Manager's Obligation 37

Article 15 - Assignment; Governing Law; Venue; Severability 39

Article 16 - Notice of Claim: Waiver of Remedies; No Damages for Delay; Dispute Resolution 40

Article 17 - County's Right to Perform Construction and to Award Separate Contracts 42

Article 18 – Federal Emergency Management Agency (FEMA) Requirements 43

Article 19 - Miscellaneous 47

Signature Page 49

Attachment "A" - Direct Purchasing Procedure 50

Attachment "B" - Ordinance 98-37 55

Attachment "C" – Public Construction Bond 60

Attachment "D" – Public Construction Performance Bond 61

Attachment "E" - Contractor's Guaranteed Maximum Price 62

Attachment "F" - Certificate of Substantial Completion 63

Attachment "G" - Certificate of Final Completion 64

Attachment "H" - Application and Certificate for Payment **65**
Attachment "I" - Vendor Affidavit Regarding Scrutinized Company List **66**
Attachment "J" - Minority Employment Information **68**
Attachment "K" - Public Entity Crime Acknowledgment **69**

Construction Manager Contract

This Contract made by and between the **Brevard County Board of County Commissioners**, a political subdivision of the State of Florida whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereinafter referred to as "County"), and **Canaveral Construction Co., Inc.** (hereinafter referred to as "Contractor"), a company licensed to do business in the State of Florida.

Whereas, the Board of County Commissioners approved the repair of damages to Parks and Recreation facilities at the April 24, 2018 Board meeting; and

Whereas, the Board recognizes the need to replace the dock at Tom Statham Park (hereinafter referred to as the "Project"); and

Whereas, at this time the Board of County Commissioners desires to enter into a Contract with Contractor to complete said Project.

Now, Therefore, in consideration of the premises and mutual covenants contained herein, the parties hereby agree, as follows:

Article 1 - The Construction Team and Extent of Contract

The Contractor accepts the relationship of trust and confidence established between him and the County by this Contract. The Contractor covenants with the County to furnish the best skill and judgment and to cooperate with Morgan & Associates Consulting Engineers, Inc. (hereinafter referred to as the "Architect/Engineer" in furthering the interests of the County. The Contractor agrees to furnish efficient business administration and superintendence and use its best efforts to complete the Project in the best and soundest way, and in the most expeditious and economical manner consistent with the interest of the County.

1.1 The Construction Team

The Contractor, Architect/Engineer and the County called the "Construction Team", shall work jointly during design and through final construction completion and shall be available thereafter should additional services be required. The Architect/Engineer shall provide leadership during the Design Phase with support from the Contractor, and the Contractor shall provide leadership to the Construction Team on all matters relating to construction.

The specific representatives of the Construction Team are shown below:

Project Director:	Mike Butcher
Architect/Engineer:	Morgan & Associates Consulting Engineers, Inc.
Construction Manager:	Canaveral Construction Co., Inc.
Director of Construction:	Mike Harkcom
Project Manager:	Dirk Neuerburg
Project Administrator:	Kristin Tyler
Project Superintendent:	Carl Petteck

1.2 Scope of Work

A general description of the Work/Project to be built/constructed/installed under this Contract shall be as described below.

A. Demolish, remove and dispose of existing piles, docks, walkways and roof structure.
B. Furnish and install new piles, docks, walkway and roof structure with Kynar painted aluminum roof.
C. Furnish and install a new maximum of three hundred forty-two cubic yards of new coquina rock.
D. Furnish and install six, ten-foot by 10-foot pavilions.
E. There is no asbestos or hazardous materials contemplated on the project, therefore, no costs have been included for testing or removal.
F. No costs are included for metal railings.
G. No costs are included for subsurface/unforeseen conditions.
H. No costs are included for utility and drainage work.
I. No costs are included for vibration monitoring.
J. No costs are included for test piles and load testing.
K. No costs are included for benthic surveys.
L. No costs are included for turbidity sampling.
M. No costs are included for timber pile wraps and caps.
N. No costs are included for blow counts for driven pile.
O. No costs are included for asphalt patches, asphalt repairs, signage and striping.
P. No costs are included for any work not listed above or on the Guaranteed Maximum Price (**Attachment "E"**)
Q. No costs are included for benches within pavilion structures.

1.3 Definitions

A. Contract Documents - Consist of this Contract with attachments and any forms required under this Contract, including, but not limited to, Scope of Work, , the specifications, the Guaranteed Maximum Price, any Conditions of the Contract between the County and the Contractor (General, Special, Supplementary and other conditions), permit conditions, if any, grant specifications, any addenda to the foregoing listed documents and all change orders, amendments or modifications as provided in Article 10, whether or not any of the foregoing

listed documents have been attached hereto.

B. **Architect/Engineer –** Morgan & Associates Consulting Engineers, Inc., 504 North Harbor City Boulevard, Melbourne, Florida 32935.

C. **Contractor/Construction Manager –** Canaveral Construction Co., Inc., 3475 North U.S. Highway 1, Mims, Florida 32754.

D. **County -** Brevard County Board of County Commissioners, (through the Brevard County Parks and Recreation Department), 2725 Judge Fran Jamieson Way, Building B, 2nd Floor, Viera, Florida 32940, (321) 633-2046; facsimile (321) 633-2198. For the purposes of this Contract, the County may also include the County Manager or the Project Director, or their designees, with regard to the performance of designated functions and duties specified for each under the terms and provisions of this Contract.

E. **County's Representatives -** The Project Director and his/her supervisors and/or designees.

F. **Estimate -** The Contractor's latest estimate of probable Project construction cost.

G. **Guaranteed Maximum Price (GMP) -** The Guaranteed Maximum Price for the construction of the Project, which shall be subject to adjustments only as provided herein. Guaranteed Maximum Price includes Cost of the Work, Allowable Costs (overhead), General Conditions and Contractor's fee for Construction Phase services. The Guaranteed Maximum Price does include the cost for County direct purchases; however, all County direct purchases will be deducted in one deductive change order in accordance with **Attachment "A"** (Direct Purchasing Procedure) at the end of the Project.

H. **Permitting Authority -** All applicable Federal, State, County and local agencies responsible for permitting and code inspections on projects administered by the County.

I. **Project -** The Project is the total work to be performed under this Contract. The Project consists of planning, design review, permitting, construction (which includes all labor, equipment, material and supervision) and code inspection necessary to build/construct/install and complete the Scope of Work identified in **Section 1.2** (Scope of Work).

J. **Project Director -** The person designated by the County to provide direct interface with the Contractor with respect to the County's responsibilities. Mike Butcher is the designated Project Director.

K. **Site –** Tom Statham Park, 7101 South U.S. Highway 1, Titusville, Florida 32796.

L. **Substantial Completion** - The point in the construction where all essential elements of the Project are sufficiently complete in conformance with the Contract, that the County has both the occupancy of the Project, as evidenced by a Certificate of Occupancy issued by the governmental authority with jurisdiction, and the beneficial use of the Project for its intended purpose where only minor "punch list" items, or a written list of unfinished Work and defective work, are required for final completion. Substantial Completion shall not be deemed to have occurred where 1) latent defects are revealed subsequent to use and occupation of the Project by the County; or 2) the scope of substantial defects in workmanship or materials are not readily observable or discoverable when use and occupancy of the Project commenced; or 3) there is a failure to meet grant specifications, if any.

1.4 Extent of Contract

This Contract for Construction Management Services provides for labor, materials, and equipment for dock replacement at Tom Statham Park and supersedes any prior negotiations, representations or agreements, whether oral or written. The drawings, specifications and other descriptive documents defining the work to be included under this contract shall be submitted to the Project Director. The Contractor shall obtain from the County three sets of signed, sealed and dated drawings, specification and other documents upon which the Guaranteed Maximum Price is based. The Contractor shall acknowledge on the face of each document of each set that it is the set upon which it based its Guaranteed Maximum Price and shall send one set of the documents to the Project Director along with its Guaranteed Maximum Price proposal, while keeping one set for itself and returning one set to the Architect/Engineer.

This Contract shall not be superseded by any provisions of the documents for construction and may be amended **only by written instrument signed by both the County and Contractor.**

Article 2 - Construction Manager's Responsibilities

Contractor shall perform all services described in this Article. The services to be provided under Subsection 2.1 constitute the Pre-Construction Phase services. The services to be provided under Subsections 2.2 thru 2.9 constitute the Construction Phase services. The parties acknowledge the Construction Phase shall commence before the Pre-Construction Phase is completed, and to a certain extent, when possible, both phases shall proceed concurrently.

2.1 Pre-Construction Phase

2.1.1 Preliminary Evaluation

Contractor shall provide a preliminary evaluation of County's program and Project budget requirements, each in terms of the other.

2.1.2 Consultation

Contractor will provide Design Disciplines Construction Documents Plans and Specifications review at all design milestones and a final constructability review. The review at each milestone will identify areas of omission, overlap, and identify documents to be modified in order to clarify the construction details. The review will also include the coordination and interface of the Contract document's General Conditions, Special Conditions, trade contractor bid packages, and site utilization planning during construction. Reviews shall be completed and comments provided within five business days. As part of the design review, Contractor will provide Value Engineering and construction alternatives for consideration by the County and Architect/Engineer, identifying options for systems and components that are cost effective, more easily maintained, and otherwise more efficient.

Contractor has scheduled and attended, and shall continue to jointly schedule and attend, **weekly** progress meetings (or as otherwise mutually agreed to by the Project Director or Contractor's Project Manager) with County and Architect/Engineer. Contractor has and will continue to consult with County and Architect/Engineer regarding site use and improvements, and the selection of materials, building systems and equipment. Contractor has provided and will continue to provide recommendations on construction feasibility; actions designated to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including, but not limited to, estimates of alternative designs or materials, preliminary budgets and possible economies.

2.1.3 Project Schedule

Contractor shall submit the Project Schedule to the Project Director. Contractor shall coordinate and integrate the Project Schedule with the services and activities of the County and Architect/Engineer. The Contractor shall provide current scheduling information to the Project Director and provide direction and coordination regarding milestones, beginning and finishing dates, responsibilities for performance and the relationships of the Contractor's work to the work of its subcontractors and suppliers to enable them to perform their respective tasks so that the development of construction progresses in a smooth, workmanlike, and efficient manner in conformance with the overall Total Project Schedule. The schedule shall include all phases of construction work, material supplies, long lead procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance of testing requirements. The Contractor shall advise the County and its representatives, and Architect/Engineer of their required participation in any meeting or inspection giving at least three days notice in writing unless such notice is made impossible by conditions beyond the Contractor's control. The Contractor shall hold jobsite meetings at least once each week with the Construction Team, and at least once each week, or more frequently as required by work progress, with the subcontractors, and Architect/Engineer's field representatives and the County to review progress, discuss problems and solutions, and coordinate future work with all subcontractors.

2.1.4 Subcontractors and Suppliers

Contractor shall continue to develop subcontractor interest in the Project and shall furnish to the County and Architect/Engineer for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Project. County will promptly reply in writing to Contractor if the County has an objection to any such subcontractor or supplier. The receipt of such list shall not require the County to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the rights of the County to later object to or reject any proposed subcontractor or supplier.

2.1.5 Long Lead and County Direct Procurement

The Contractor shall review the design for the purpose of identifying long lead and the County direct procurement items (machinery, equipment, materials and supplies). When each item is identified the Contractor shall notify the subcontractors and the County of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected subcontracts. As soon as the Architect/Engineer has completed drawings and technical specifications and the Contractor has obtained permitting approval, the Contractor shall prepare Invitation for Bids. The Contractor shall keep informed of the progress of the respective subcontractors and/or suppliers, manufacturing or fabricating such items and notify the County and Architect/Engineer of any problems or prospective delay in delivery.

2.1.6 Extent of Responsibility

The recommendations and advice of Contractor concerning design alternatives shall be subject to the review and approval of the County and its professional consultants. It is not the Contractor's responsibility to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, building codes, rules and/or regulations. However, if Contractor recognizes that portions of the Drawings and Specifications are at variance therewith, Contractor shall promptly notify County and Architect/Engineer in writing.

2.1.7 Equal Employment Opportunity and Affirmative Action

Contractor shall comply with all applicable laws and regulations, as well as the special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs.

2.1.8 Separate Contracts Planning

The Contractor shall review the design with the and Architect/Engineer and make recommendations to the County and Architect/Engineer with respect to dividing the work in such manner as will permit the Contractor to take bids and award separate construction subcontracts on the current schedule while the design is being completed. The Contractor shall take into consideration such factors as natural and practical lines of severability, sequencing, effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and costs by overlapping design and construction that are authorized by the County.

2.2 Construction Phase

2.2.1 Interfacing

The Contractor shall take such measures as are appropriate to provide that all construction requirements will be covered in the separate subcontracts for procurement of long lead items, the separate construction subcontracts and the general conditions items performed without

duplication or overlap, sequenced to maintain completion of all work on schedule. Particular attention shall be given to provide that each bid package clearly identifies the work included in that particular separate subcontract, its schedule for start and completion and its relationship to other separate subcontractors.

2.2.2 Subcontractor Interfacing

The Contractor shall be the single point of interface with all Subcontractors, the County, and all of its agents and representatives including the Architect/Engineer. The Contractor shall negotiate all change orders, field orders and request for proposals, with all affected Subcontractors and shall review the costs of those proposals and advise the County and Architect/Engineer of their validity and reasonableness, acting in the County's best interest prior to requesting approval of each change order from the County. Before any work is begun on any change order, an executed Authorization to Initiate Work form from the County must be issued. However, when health and safety are threatened, the Contractor shall act immediately to remove the threat to health and safety. The Contractor shall also carefully review all shop drawings and then forward the same to the Architect/Engineer for review and actions. The Architect/Engineer will transmit them back to the Contractor who will then issue the shop drawings to the affected Subcontractor for fabrication or revision. The Contractor shall maintain a suspense control system to promote expeditious handling. The Contractor shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of the Contractor by the Subcontractors and shall maintain a suspense control system to promote timely response. The Contractor shall advise the Project Director and Architect/Engineer when timely a response is not occurring on any of the above.

2.3 Solicitation of Bids

A. Without assuming responsibilities of the Architect/Engineer, the Contractor shall prepare Invitations for Bids (or Request For Proposals, when applicable) for all procurements of long lead times, materials and services for Subcontractor contracts and for site utilities.

B. As part of such preparation, the Contractor shall review the specifications and drawings prepared by the Architect/Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Contractor shall be brought to the attention of the Project Director and Architect/Engineer in written form.

C. For each separate subcontractor or construction trade contract used in this Project, the Contractor shall, unless waived by the County, conduct a pre-bid conference with prospective bidders, the Architect/Engineer and Project Director. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Contractor shall transmit these to the Architect/Engineer and, upon receiving clarification or correction in writing shall prepare an

addendum to the bidding document, and issue same to all of the prospective bidders.

D. In accordance with Subsection 2.8.1 herein, the Contractor shall open and review all bids and enter into contracts with those low bidders determined to be most qualified by the Contractor. The Contractor shall make every effort to follow the County's Pre-Qualification Ordinance 98-37 **(Attachment "B")** for applicable subcontract trades.

2.4 Bonds

For those projects where the cost will exceed one hundred thousand dollars, in accordance with the provisions of Section 255.05, Florida Statutes, the Contractor shall provide to the County, on forms furnished by the County **(Attachments "C" and "D")**, certified copies of the recorded one-hundred percent Public Construction Performance Bond and one-hundred percent Public Construction Payment Bond each in an amount not less than the total construction cost Guaranteed Maximum Price as defined in Article 9 herein and inclusive of the construction fee. Payment and Performance Bonds shall be recorded (by the Contractor) in the official record of the County in which the Project is located. The Contractor must provide a copy of the bonds to all subcontractors and notify them of deadlines to make claims under the bonds.

2.5 Quality Control

The Contractor shall develop and maintain a program, acceptable to the County and Architect/Engineer, to assure quality control of the construction (this may include personnel if approved by the County). The Contractor shall have a qualified and competent superintendent to supervise the work of all Subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and shall continue to exert influence and control over each Subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the Project. Should disagreement occur between the Contractor and Architect/Engineer over acceptability of work and conformance with the requirements of the specifications and plans the County shall be the final judge of performance and acceptability.

2.6 Guaranteed Maximum Price and Contract Time

2.6.1 Contractor acknowledges and agrees the Drawings and Specifications are sufficiently complete for Contractor to propose a Guaranteed Maximum Price, which is the total not to exceed the sum of the Contractor's Fee and the Cost of the Project. Accordingly, the Guaranteed Maximum Price is hereby established at **Four Hundred Ninety-Three Thousand Eight Hundred Forty-Seven Dollars**. The final approved Guaranteed Maximum Price spread sheet is hereby attached as **Attachment "E"** to and shall become a part of this Contract between the County and Contractor.

2.6.2 The Cost of the Project shall include Contractor's contingency, a sum agreed to by all parties for the Contractor's use to cover costs arising from unforeseen conditions in the project.

Contractor's contingency is hereby established as a separate line item of **Twenty-Three Thousand Two Hundred Sixty-Three Dollars** within the Guaranteed Maximum Price.

2.6.3 Basis of Guaranteed Maximum Price

The Guaranteed Maximum Price, herein established is based upon the following:

A. The list of the Drawings and Specifications, including all addenda thereto, and the Conditions of the Contract, which are identified in the Attachments to this Contract.

B. The list of clarifications and assumptions made by Contractor in the preparation of its Guaranteed Maximum Price proposal to supplement the information contained in the Drawings and Specifications.

C. Contractor is to achieve Substantial Completion of the Work within **One Hundred Twelve Days** from issuance of Notice to Proceed. Final Completion shall be achieved within an additional **Fourteen Days**.

2.6.4 Included within the Guaranteed Maximum Price is the Contractor's fee. The Contractor's Fee is hereby established as **Sixty Thousand Six Hundred Eighty-Five Dollars** for services provided in this Contract. The sum of the Cost of the Project and the Contractor's Fee shall not exceed the Guaranteed Maximum Price. The Contractor's Fee shall constitute Contractor's total compensation for profit. All costs in excess of the final approved Guaranteed Maximum Price (as reduced by County direct purchases, if any, in accordance with **Attachment "A"**) are the responsibility of the Contractor. **Any savings between the Guaranteed Maximum Price (as reduced by County direct purchases) and the sum of the actual cost of the Project plus the Contractor's fee will be returned to the County.**

2.6.5 Prior to issuance of the Construction Phase Notice to Proceed, Contractor shall not incur any costs to be reimbursed as part of the Cost of the Project, except as County may specifically authorize in writing.

2.6.6 The Guaranteed Maximum Price and date of Substantial Completion shall be subject to additions and deductions by a Change Order as provided in the Contract Documents.

2.6.7 The Guaranteed Maximum Price shall include in the Cost of the Project only those taxes which are enacted and in effect at the time the Guaranteed Maximum Price was determined.

2.7 Construction Phase

2.7.1 General

The Construction Phase shall commence on the date identified in the Notice to Proceed to be issued by the County. The Contractor shall cause all Work required by the Contract Documents to be properly completed in accordance with the terms of the Contract Documents and within

the Contract Time.

2.7.2 Contractor's Staff

The Contractor shall maintain sufficient off-site support staff, and competent full-time staff at the Project site authorized to act on behalf of the Contractor and to coordinate, inspect and provide general direction of the work and progress of the subcontractors, and the Contractor shall provide no less than those personnel during the respective phases of construction. The Contractor shall not change any of those designated persons unless mutually agreed to by the County and Contractor. In such case, the County shall have the right of approval of the qualifications of replacement personnel. Such approval will not be unreasonably withheld.

2.7.2.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor.

2.7.2.2 The Contractor's superintendent shall be in attendance at the Project site not less than eight hours per day, five days per week, and any time work is being performed at the jobsite, unless the job is closed down due to a general strike or conditions beyond the control of the Contractor or until completion or termination of the Contract. It is understood that such superintendent shall be acceptable to the County and the Architect/Engineer, and shall be the one who will continue in that capacity for the duration of the Project, unless the County otherwise agrees. The superintendent shall not be employed on any other project for or by Contractor or any other entity during the course of the work.

2.7.3 Lines of Authority

The Contractor shall establish and maintain lines of authority for its personnel, and shall provide this description/definition to the County and all other affected parties such as the code inspectors of the permitting authorities, the subcontractors, the Architect/Engineer and the County's representatives, to provide general direction of the work and progress of the various phases and subcontractors. The County and the Architect/Engineer may attend meetings between the Contractor and subcontractors, however, such attendance shall not diminish either the authority or responsibility of the Contractor to administer the subcontractor.

2.8 Administration

2.8.1 Those portions of the Project that Contractor does not customarily perform with Contractor's own personnel shall be performed under subcontracts or by other appropriate written contracts with Contractor. Contractor shall obtain bids from subcontractors and from suppliers of materials or equipment fabricated to a special design for the Project from the list previously reviewed and, after analyzing such bids, shall deliver such bids to the County and

Architect/Engineer for review and comment. Based upon that review and comment, Contractor shall then determine, subject to the reasonable objection of the Architect/Engineer or County, which bids will be accepted. Contractor shall not be required to contract with anyone to whom Contractor has reasonable objection. Notwithstanding anything herein to the contrary, Contractor covenants and agrees that it shall competitively bid all subcontracts. Further, with respect to all such subcontracts, Contractor covenants and agrees that it shall select and contract with the lowest, responsive and qualified bidder, unless otherwise consented to in writing by the County.

2.8.2 Subcontracts and contracts with suppliers furnishing materials or equipment fabricated to a special design shall conform with payment provisions and shall not be awarded on the basis of cost plus a fee without prior written consent of County.

2.8.3 Contractor shall schedule and conduct weekly meetings, at a minimum, at which the County, Architect/Engineer, Contractor and appropriate Subcontractors can discuss the status of the Project. Contractor shall prepare and promptly distribute meeting minutes within two business days after any such meeting is held.

2.8.4 Contractor shall provide Monthly Written Reports to the County on the progress of the entire Project. Contractor shall maintain a daily log containing a record of weather, subcontractors working on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the County may require. The log shall be available to the County at all times.

2.9 Professional Services

Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering, unless such services are specifically required by the Contract Documents for a portion of the Project or the Contractor has specifically agreed in writing to provide such services. In such event, Contractor shall cause such services to be performed by appropriately licensed professionals.

2.10 Unsafe Materials

If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered but not created or brought on the site, Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the County and Architect/Engineer in writing. County shall be responsible for obtaining the services of a licensed laboratory to verify the presence or absence of the material or substance reported by Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

In accordance with Section 255.40, Florida Statutes, the County will require that the Contractor

certify, upon Project Completion, that to the best of its knowledge and ability no asbestos-containing materials and/or supplies have been purchased and/or installed on this Project.

2.11 Weather Protection

The Contractor shall be responsible to ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. All costs associated with this shall be the responsibility of the Contractor.

2.12 Job Site Requirements

A. The Contractor shall provide for each of the following activities as a part of the Contractor's Construction Phase services:

1. Maintain a log of daily activities, including, but not limited to, manpower records, weather, delays, and major decisions, and require the same of subcontractors.
2. Maintain a directory of companies on the Project with names, addresses, telephone numbers, emergency telephone numbers and fax numbers of key personnel.
3. Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.
4. Provide labor relations management for a harmonious, productive Project.
5. Provide a safety program for the Project to meet safety standards, including, but not limited to, Occupational Safety and Health Administration requirements.
6. Monitor for subcontractor compliance without relieving them of responsibilities to perform work in accordance with the best acceptable practice.
7. Provide a quality control program.
8. Miscellaneous office supplies that support the construction efforts which are consumed by its own forces.

2.13 Job Site Administration

The Contractor shall provide as part of the Contractor's Construction Phase services, administrative functions during construction, including but not limited to, the following:

A. Job Meetings - Hold weekly progress and coordination meetings to provide for an easy flowing Project. Implement procedures and assure timely submittals, expedite processing approvals and return of shop drawings, samples, etc. Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing, labor allocations, etc. Review and coordinate each Subcontractor's work. Review and implement revisions to the Schedule. Monitor and promote safety requirements.

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

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

B. **Shop Drawing Submittals/Approvals** - Check Shop Drawings and implement procedures for submittal and transmittal to the County of such drawings for action, and closely monitor their submittal and approval process. Provide copy of all correspondence to the County. Contractor shall provide one approved Submittal or Shop Drawing to the County.

C. **Material and Equipment Expediting -** Closely monitor material and equipment deliveries; implement inspection and follow-up procedures on commitments of all Suppliers and Subcontractors.

D. **Payments to Subcontractor** - Develop and implement a procedure for review, processing, and payment of applications by Subcontractors for progress and final payments.

E. **Document Interpretation** – Refer all questions for interpretation of the documents prepared by the Architect/Engineer to the Architect/Engineer.

F. **Reports and Project Site Documents -** Record the progress of the Project. Submit written progress reports to the County and the Architect/Engineer including information on the Subcontractor's work, and the percentage of completion. Keep a daily log available to the County, the Architect/Engineer and the Permitting Authority inspectors.

G. **Substantial Completion -** The Contractor shall secure the Certificate of Occupancy and notify the County and Architect/Engineer, in writing, that the Project will be ready for inspection to determine if it is substantially complete and ready for inspection on or after a specific date, which date shall be stated in the notice. The notice shall be given at least seven days in advance of said date. Inspection and testing shall take place at times mutually agreeable to the Contractor, Architect/Engineer and County. The inspection will be conducted jointly between the Architect/Engineer, County and Contractor's representative. The inspection shall determine if substantial completion has been accomplished and the Architect/Engineer shall produce a Certificate of Substantial Completion (**Attachment "F"**) and a written list of unfinished Work and defective work, commonly referred to as a "Punch List", which must be finished and corrected to obtain final completion.

At the County's option a specific area or segment of the Project may be inspected and/or determined substantially complete.

H. **Final Completion -** The Contractor shall notify the Architect/Engineer and County, in writing, that the Project will be ready for final inspection on or after a specific date, which date shall be stated in the notice. This notice shall be given at least seven days in advance. That inspection and any necessary testing shall be conducted in the same manner as the inspection for Substantial Completion. When the Project is finally and totally complete, including the elimination of all defects, a Certificate of Final Completion (**Attachment "G"**) will be issued by the Architect/Engineer and the Project shall be submitted to the County for final acceptance.

The County and Architect/Engineer shall conduct the inspections. The County may elect to have other persons of its choosing also participate in the inspections. If one or more re-inspections are required, the Contractor shall reimburse the County for all costs of re-inspection or, at the County's option, the costs may be deducted from payments due to the Contractor. The Total Project Schedule shall include these notices and inspections as activities.

The Contractor shall secure and transmit to the Architect/Engineer all required guarantees, affidavits, releases, bonds and waivers, manuals, and maintenance books as part of final completion (in triplicate) unless stated otherwise in the Project specifications.

I. **Start-Up -** With the County's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the subcontractors.

J. **Record Drawings** – The Contractor shall monitor the progress of Work on marked-up field prints which, at Substantial Completion, shall be submitted to the Architect/Engineer who will prepare the final record drawings.

K. **Administrative Records -** The Contractor will maintain at the job site on a current basis, files and records such as, but not limited to the following:

1. Contracts and Purchase Orders
2. Shop Drawing Submittal/Approval
3. Logs Equipment
4. Purchase/Delivery Logs
5. Contract Drawings and Specifications with Addenda
6. Cost Proposal Requests
7. Meeting Minutes
8. Lab Test Reports
9. Contract Changes
10. Material Purchase Delivery Logs
11. "As-Built" Marked Prints
12. Monthly Progress Reports

13. Correspondence
14. Files Transmittal Records
15. Inspection Reports
16. Punch Lists

The Project records shall be available at all times to the County and Architect/Engineer for reference or review.

L. **County Occupancy -** The Contractor shall provide services during the Construction Phase which will provide a smooth and successful County occupancy of the Project. The Contractor shall provide consultation and project management to facilitate County occupancy and provide transitional services to get the work, as completed by the contractors "on line" in such conditions as will satisfy County operational requirements.

The Contractor shall conduct the Contractor's preliminary punch list inspection and coordinate the completion of all punch list work to be done with County occupancy requirements in mind.

The Contractor shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey these to the County in such a manner as to promote their usability (in triplicate). The Contractor shall provide operational training, in equipment use, for building operators to a maximum of eight hours.

The Contractor shall secure required guarantees and warranties, assembled and organized (in a binder) and deliver same, in triplicate, to the County in a manner that will facilitate their maximum enforcement and assure their meaningful implementation.

The Contractor shall continuously review "As-Built" Drawings and mark-up progress prints to provide as much accuracy as possible.

M. **Warranty -** Where any work is performed by the Contractor's own forces or by Subcontractors under contract with the Contractor, the Contractor shall warrant that all materials and equipment included in such Work will be new except where indicated otherwise in Contract Documents, and that such Work will be of good quality, free from improper workmanship and defective materials and in conformance with the Drawings and Specifications. With respect to the same Work, the Contractor further agrees to correct all work found by the County to be defective in material or workmanship or not in conformance with the Drawings and Specifications for a period of one year from the Date of Final Completion or as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Contractor shall collect and deliver to the County any specific written warranties given by others as required by the Contract Documents. Also, the

Contractor shall conduct, jointly with the County and the Architect/Engineer a warranty inspection nine months after the date of County Occupancy. This warranty inspection will be scheduled by a representative of the County.

Article 3 - County's Responsibilities

3.1 County's Information

The County shall provide full information regarding County's requirements for the Project.

3.2 County's Representative/Project Director

The County shall designate a representative who shall be fully acquainted with the Project and shall define the lines of County authority to approve Project Construction Budgets, and changes in Project. The County's representative shall render decisions promptly and furnish information expeditiously.

3.3 Architect and Engineer's Contract – The County shall retain an Architect/Engineer for design and to prepare construction documents for the Project. The Architect/Engineer's services duties and responsibilities are described in the Contract between the County and the Architect/Engineer, a Copy of which will be furnished to the Contractor upon request.

3.4 Approvals and Easements

The County shall pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.5 Legal Services

The County shall furnish such legal services as may be necessary for providing the items set forth in Article 3 and such auditing services as the County may require.

3.6 Cost of Surveys & Reports

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the County's expense, and the Contractor shall be entitled to rely upon the accuracy and completeness thereof.

3.7 Project Fault or Defects

If the County becomes aware of any fault or defect in the Project or non- conformance with the drawings and specifications, the County shall give prompt written notice thereof to the Contractor and Architect/Engineer.

3.8 Funding

The County shall furnish, in accordance with the established schedule, reasonable evidence

satisfactory to the Contractor that sufficient funds will be available and committed for the cost of each part of the Project.

3.9 Lines of Communication

The County and Architect/Engineer shall communicate with the Subcontractors or Suppliers only through the Contractor while such method of communication is effective in maintaining Project schedules and quality.

3. 10 Lines of Authority

The County shall establish and maintain lines of authority for County's personnel and shall provide this definition to the Contractor and all other affected parties.

3.11 Permitting & Code Inspections

The County recognizes and coordinates with the Permitting Authority and expects the Contractor to do the same.

Article 4 - Permitting and Inspection

4.1 Permits, Fees and Notices

Unless otherwise provided in the Contract Documents, the Contractor shall secure and the County shall pay for any Brevard County building permit or other County permits and governmental fees and licenses necessary for proper execution of the Contract and which are legally required. Any other entity/jurisdiction permits (i.e.: City of Titusville, City of Melbourne, etc.) shall be included in the Guaranteed Maximum Price and secured and paid for by the Contractor. County Impact and Solid Waste fees will also be paid by the County. Copies of all permits shall be submitted to the County.

4.2 The Contractor shall comply with, and give notices required by, any law, ordinance, rule or regulation and lawful orders of public authorities bearing on performance of the work required for the Project.

4.3 It is not the County's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, and such variance was not discoverable during the Contractor's review of these documents for the purpose of determining the Guaranteed Maximum Price, the Contractor shall promptly notify County and Architect/Engineer, in writing, and necessary changes shall be accomplished by appropriate modification.

4.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the County and Architect/Engineer, the Contractor shall assume full responsibility for such Work and shall bear

the attributable costs and liability.

Article 5 - Subcontracts

5.1 Definition

A subcontractor is a person or organization who has a direct contract with the Contractor to perform any of the work. Nothing contained in the Contract Documents shall create any contractual relation between the County or Architect/Engineer and any Subcontractor.

5.2 Bids/Proposals

The Contractor shall request and make every attempt to receive, at a minimum, three bids/proposals from subcontractors and suppliers and will award those contracts to the most qualified and responsive low bidder after the Contractor and County have reviewed each bid/proposal and agree that the subcontractor is qualified to perform the work.

5.3 Required Subcontractor and Subcontract Conditions

5.3.1 Sub-contractual Relations

By an appropriate written contract, the Contractor shall require each Subcontractor to the extent of the work to be performed by the subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor by this Contract, assumes toward the County and the Architect/Engineer. Said contracts shall preserve and protect the rights of the County and Architect/Engineer under the Contract Documents with respect to the work to be performed by the subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with its subcontractor's subcontractor.

The Contractor shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Subsection 5.3 and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents. Each subcontractor shall similarly make copies of such Documents available to its sub-subcontractor.

A. Subcontractors shall submit a complete pre-qualification form demonstrating their work experience, financial condition, and adherence to schedule. The subcontractors' financial condition must demonstrate that adequate fixed and liquid assets and equipment are available to properly perform the subcontract.

B. Workforce - The subcontractor must agree to perform no less than fifty percent of the Project construction work utilizing its own forces.

C. All subcontracts shall provide:

1. **Limitation of Remedy – No Damages for Delay:** That the subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the County or Architect/Engineer or attributable to the County or Architect/Engineer, and including claims based on breach of contract or negligence, shall be an extension of its contract time.

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

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

2. Each subcontract shall require that any claims by a subcontractor for delays or additional cost must be submitted to Contractor within the time and in the manner in which the Contractor must submit such claims to the County, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

5.4 Responsibilities for Acts and Omissions

The Contractor shall be responsible to the County for the acts and omissions of its employees and agents and its subcontractors, agents and employees, and all other persons performing any of the work or supplying materials under this contract to the Contractor.

Article 6 - Schedule, Time of Commencement and Substantial Completion

6.1 At the time a Guaranteed Maximum Price is established, as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date and a County Occupancy Date for completion of the Project in accordance with the master Project schedule, shall also be established by the Construction Team. The Contractor agrees to complete the construction in accordance with the agreed upon Substantial Completion Date, Final Completion Date and County Occupancy Date. The Contractor acknowledges that failure to complete the Project within the construction time set forth in the approved schedule will result in substantial damages to the County.

It is specifically agreed by and between the parties that the County may deduct a sum in the amount scheduled below from the amount of compensation to be paid to the Contractor, Sundays and Holidays included, that the Project remains uncompleted. This amount as scheduled and agreed upon as a proper measure of liquidated damages, which the County will

sustain per day by failure of the Contractor to complete the Project by the time stipulated in this Contract, is not to be construed in any sense as a penalty provision nor as the County's sole remedy.

Project Substantial Completion	Five Hundred Dollars per day
Project Final Completion	Two Hundred Fifty Dollars per day

Liquidated Damages will be assessed for each day beyond the contracted project Substantial Completion date, until actual project Substantial Completion is achieved. From the date of Substantial Completion, the Contractor shall be granted thirty days for completion of punch list items, associated inspections and approvals, and submission and approval of required closeout documentation, at which time Final Completion shall be obtained. Final Completion liquidated damages will be assessed for each day beyond the thirty-day period from actual Substantial Completion.

6.2 The date of County Occupancy shall occur as described in Subsections 2.13 K. and 1.3, hereinabove. Warranties called for by this Contract or by the Drawings and Specifications shall commence on the Date of Final Completion of the Project unless specified otherwise in the Project Specifications.

Article 7 - Guaranteed Maximum Price for Construction

7.1 The Contractor shall establish and submit in writing a Guaranteed Maximum Price to the County for its approval, guaranteeing the maximum price to the County, for the construction cost of the Project or designated part thereof, based on a review of the contract drawings and specifications. Such Guaranteed Maximum Price will be subject to increase or deduction for changes in the Project as provided in Article 10 and for County direct purchases, if any, in accordance with **Attachment "A"**. All costs in excess of the final approved Guaranteed Maximum Price, as adjusted up or down in accordance with the terms of this Contract, are the responsibility of the Contractor. Any savings between the Guaranteed Maximum Price, as adjusted, and the sum of the actual cost of the Project plus the Contractor's fees, will be returned to the County. The Guaranteed Maximum Price includes all taxes in the Cost of the Project which were legally enacted and in effect at the time the Guaranteed Maximum Price was established.

7.2 County-Direct Purchases

In the event the County opts to make County Direct Purchases, as outlined in **Attachment "A"**, the Guaranteed Maximum Price shall be reduced by the cost of the materials plus applicable sales tax so that all sales tax savings accrue to the benefit of the Project contingency. The Contractor shall diligently process all County Direct Purchase invoices for the project in order for

the County to benefit from applicable vendor discounts. The Contractor shall be required to submit all invoices to County in sufficient amount of time in order for the project to benefit from the vendor discount. All costs associated with missed discounts by the Contractor shall be deducted from the Contractor's contract via deductive change order at Project completion. The County reserves the right to waive the Contractor's responsibility for missing discounts.

7.3 At the time of execution of this Contract, the Contractor shall verify the time schedule for activities and work which is adopted by the Construction Team and used to determine the Contractor's cost of work. Surplus funds from bids received below the applicable line items, including line items within the General Conditions, in the Guaranteed Maximum Price will be set aside for contingency. Construction contingency funds will be used for the purpose of defraying the expenses due to unforeseen circumstances relating to construction. The Contractor shall be required to furnish documentation evidencing expenditures charged to this contingency prior to the release of funds by the County. Documentation for use of the Contingency shall be determined by the Construction Team. The County and Architect/Engineer shall verify and approve the actual costs.

If bids are received above the applicable line item in the Guaranteed Maximum Price the deficiency will be taken from the contingency via an approved Authorization to Initiate Work/Guaranteed Maximum Price Realignment form; however, such events shall not be cause to increase the Guaranteed Maximum Price. If bids are not received for a portion of the work at or below the applicable line item amount in the Guaranteed Maximum Price, the Contractor reserves the right to perform that portion of the work or negotiate for its performance for the specified line item lump sum amount or less.

Article 8 - Construction Manager's Fee

8.1 In consideration of the performance of the Contract, the County agrees to pay the Contractor, as compensation for its services, fees as set forth in Subsections 8.2 and 8.3 subject to the retainage provisions specified in the Contract.

8.2 Construction Phase Fee

Prior to commencement of the Construction Phase, the County will direct the Contractor in writing to proceed into the Construction Phase. The County retains the right to review the need and effectiveness of any employee or employees assigned by the Contractor, should the Project Director question the need for the employee or employees. A percentage of the agreed upon Construction Phase Fee shall be paid monthly based on percentage of work completed, less retainage, in accordance with Subsection 12.1 below. The Contractor's first monthly Certificate for Payment shall be submitted no earlier than thirty days following the issuance of the Notice to Proceed, and the final monthly payment shall be paid only when construction of the Project is finally completed, all original, final release of liens are received, closeout documentation has

been submitted and occupancy of the Project accepted by the County. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the County.

A. Adjustments in Fee - For changes in the Project as provided in Article 10, the Construction Phase fee shall be adjusted as follows:

1. The Contractor shall be paid an additional fee subject to negotiation if the Contractor is placed in charge of reconstruction of an insured or uninsured loss excluding any condition that may have been caused from negligent acts by the Contractor, subcontractors or others for whose acts the Contractor is responsible.

B. Costs and Expenses Included in Contractor's Construction Phase Fee - The following are included in the Contractor's fee referenced in Article 8 for services during the Construction Phase and are included in the Guaranteed Maximum Price:

1. Corporate costs including expenses and overhead and profit-related to this Project by the Contractor's principal and branch offices.

2. Costs of all data processing, accounting, purchasing and associated staff which is performed at the home office.

3. General operating expenses incurred in the management and supervision of the project, except as expressly included in Article 9.

4. Salaries or other compensation of the Contractor's employees at Contractor's principal and branch offices.

5. Those services set forth in Subsections 2.1, 2.2, 2.3 and 2.4; except as expressly included in Article 9.

6. Relocation expenses for Contractor's personnel.

7. Costs of all project estimating, safety, scheduling and accounting staff.

8.3 The Contractor shall establish and submit in writing to the County for its approval a Guaranteed Maximum Price, guaranteeing the maximum price to the County, for the construction cost of the Project or designated part thereof, based on a review of the contract drawings and specifications. Such Guaranteed Maximum Price will be subject to modification for changes in the Project as provide in Article 10. However, the actual price paid for the Work by the County shall be:

A. the Cost of the Project as defined in Article 9, plus the Contractor's fees, or

B. the Guaranteed Maximum Price, whichever is less, when the Work is complete. All costs in excess of the final approved Guaranteed Maximum Price are the responsibility of the Contractor.

Article 9 - Cost of the Project

9.1 Definition

The term "Cost of the Project" shall mean costs reasonably and necessarily incurred in the Project during the Construction Phase for construction services and paid by the Contractor which are included in the Construction Phase Fee, less County direct purchases made in accordance with **Attachment "A"** upon completion of the Project. Such costs shall include the items set forth below in this Article

The County agrees to pay the Contractor for the Cost of the Project subject to the limits set forth in Subsections 9.2 and 9.3 plus the Contractor's fees stipulated in Article 8, provided the total does not to exceed the Guaranteed Maximum Price.

9.2 Allowances

Within the Guaranteed Maximum Price, there may be specific items which the Contractor and County have agreed to include as allowances in the estimates until such time as the cost and schedule impact of these items can be more specifically ascertained. At the time that the Costs of the Work of allowance items becomes known (either through a subcontract price or by virtue of either (A) scope of work and cost agreed to by Contractor and County or (B) an actual buyout of the item), the Guaranteed Maximum Price and Scheduled Completion Date will be adjusted (either increased or decreased) by the actual Costs of the Work and schedule impact of the item. With respect to increases and decreases to the amount of an allowance item, Contractor shall be entitled to the Contractor's fee, subject to the limits set forth in Article 8, on the adjusted amount of such allowance, and the Guaranteed Maximum Price shall be adjusted by reason thereof, by Change Order. Allowances must be agreed to by both parties. Allowances included within the Guaranteed Maximum Price constitute approval of said allowances at the time the Guaranteed Maximum Price is approved.

9.3 Public Records Law and Audit Requirements

In the performance of this Contract, the Contractor shall keep books, records and accounts of all activities related to the Contract in compliance with generally accepted accounting procedures and in compliance with the Public Records Laws of the State of Florida (Including, but not limited to Chapter 119, Florida Statutes).

All records or documents created by Contractor or provided to Contractor by the County in connection with the activities or services provided by Contractor under the terms of this Contract, are public records and Contractor agrees to comply with any request for such public

records or documents made in accordance with Chapter 119, Florida Statutes.

Records, documents, books and accounts ordinarily and necessarily required for the performance of this Contract shall be kept, maintained and open for inspection by the County, County's representative, and members of the public during regular business hours.

The Contractor shall provide the public with access to public records on the same terms and conditions that the public agency provides the records and at a cost that does not exceed the cost provided for in Chapter 119, Florida Statutes, or as otherwise provided by law (see also County Administrative Order, AO-47).

The Contractor shall also ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by Contractor in the United States or any other country.

The Contractor shall meet all requirements for retaining public records and shall transfer, at no cost, to the County all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County.

Failure to comply with the provisions of Subsection 9.3, shall result in the County taking enforcement action against the Contractor including the cost to the County for gaining the Contractor's compliance which will include, but are not limited to, the gross hourly rate of the County's employees contacts to the Contractor to obtain compliance with this section, litigation filing fees and attorney's fees.

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide Public Records relating to this contract, contact the custodian of Public Records at (321) 633-2046 or 2725 Judge Fran Jamieson Way, Building B, Suite 203, Viera, Florida 32940.

Article 10 - Changes in the Project

10.1 Change Orders

The County, without invalidating this Contract, may order changes in the Project within the general scope of this Contract consisting of additions, deletions or other revisions which may

cause an increase or decrease in the Guaranteed Maximum Price and/or the Construction Completion Date. All changes in the Project Guaranteed Maximum Price or Construction Completion Date not covered by an authorized contingency, as described in Subsection 7.3, must be authorized by a written Change Order or Construction Change Directive, and signed by the County, Architect/Engineer and Contractor before the change is implemented. It shall be the County's discretion as to whether each change order requires the Architect/Engineer's signature. **Maximum allowable mark-up on any change order is five percent Profit, five percent Overhead, and a two percent Bond.**

10.1.1 A Construction Change Directive is a change directive signed by the Project Director and the County Manager directing an addition, deletion, or revision in the scope of work and/or schedule. The Construction Change Directive is necessary when no Contract exists among the Architect/Engineer of record, the County, and the Contractor on the dollar amount of a necessary change in the scope of work and/or an extension of time to the construction contract. The Construction Change Directive is used:

A. when an unsafe, hazardous or other similar condition exists

B. when failure to achieve prompt resolution of the change will result in a demobilization of the Contractor, its subcontractors and/or agents

C. when failure to achieve prompt resolution will result in additional cost, and/or a significant delay in completing the project.

A Construction Change Directive does not change the contract price or the contract time, but is evidence that the parties expect that the change will be incorporated in a subsequently issued Change Order or be covered by an authorized contingency.

10.1.2 A Change Order is a written order to the Contractor signed by the County, Architect/Engineer and Contractor, issued after the execution of this Contract, authorizing a change in the Project and/or an adjustment in the construction authorization, the Contractor's fee, or the Construction Completion Date. Each adjustment in the Guaranteed Maximum Price resulting from a change order shall be documented clearly to separate the amount attributable to the cost of the change in the Project from the original cost of the Project.

10.1.3 The increase or decrease in the Guaranteed Maximum Price resulting from Change Orders in the Project shall be determined by one of the following ways:

A. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the County and Architect/Engineer;

B. by unit prices stated in the Contract or subsequently agreed upon;

C. by cost as defined in Article 9 plus a mutually acceptable fixed or percentage fee; or

D. by the method provided in Subsection 10.1.4.

10.1.4 If none of the methods set forth in Subsection 10.1.3 above can be agreed upon, the Contractor, provided it receives a written order signed by the County, shall promptly proceed with the work required by the Construction Change Directive involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. However, in the event a Change Order is issued under these conditions, the Architect/Engineer will establish an estimated cost of the work and the Contractor shall not perform any work whose cost exceeds that estimate without prior written approval by the County. In such case, and also under Subsection 10.1.3 above, the Contractor shall keep and present, in such forms as the County may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Project as outlined in Article 9. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Contractor to the County for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease in the Cost of the Project and the Contractor's fee subject to the limits set forth in Article 7.

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

10.1.6 In the event the Contractor or its contracted subcontractors encounter the following:

A. concealed conditions in the performance of the Work below the surface of the ground; or

B. concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Drawings, Specifications, or County furnished information; or

C. unknown physical conditions below the surface of the ground; or

D. concealed or unknown conditions in an existing structure of an unusual nature;

E. differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, then the Guaranteed Maximum Price and the Construction Completion date shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Subsection 10.2. and Article 11.

Upon discovery of the above concealed or unknown conditions, the Contractor shall notify the

County and Architect/Engineer within twenty-four hours of discovery, and not proceed with Work until such notice has been given and a response is issued by the County. The Architect/Engineer will evaluate the alleged unknown or concealed condition and, if warranted, agree that the Guaranteed Maximum Price and schedule be increased or decreased accordingly. No claim under this Article may be made unless notice, as herein provided, is given prior to Work being performed. No equitable adjustment shall be permitted if this notice provision is not complied with.

Within ten days of submitting its Notice, the Contractor shall submit to the County its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected. Within thirty days from Notice, the Contractor shall submit detailed schedule impact and detailed cost analysis indicating quantities, unit prices, etc.

10.1.7 The Contractor shall review any County directed change and shall respond in writing within seven days after receipt of the proposed change (or such other reasonable time as the County may direct), stating the effect of the proposed change upon the Contractor's Work, including any increase or decrease in the contract time or price. The Contractor shall furnish to the County an itemized breakdown of the quantities and prices used in computing the change in Contract price.

The County and Architect/Engineer shall review the Contractor's proposal and respond to the Contractor within seven days of receipt. If a change to the Contract price and time for performance are agreed upon, both parties shall sign the Change Order. Changes to the Contract time and/or price shall be effective when signed by both parties. It shall be the County's discretion as to whether each change order requires the Architect/Engineer's signature.

10.2 Claims for Additional Cost or Time

All claims for additional cost or time shall be made by request for a change order submitted as provided in Article 10.

10.2.1 If the Contractor is delayed at any time in the progress of the work by any act or neglect of the County or the Architect/Engineer or by any separate Contractor employed by the County or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control or by delay authorized by the County pending resolution or disputes, and such delay extends the completion date, the Substantial Completion shall be extended by Change Order for such reasonable time as the Construction Team may determine.

10.2.2 All change orders must indicate that the Contract Time for Completion is not changed or is either increased or decreased by a specific number of days. The previous Time for

Completion and, if there is one, the new Time for Completion must be stated. The Contractor must provide written justification for an extension of the Time for Completion to the County and the Architect/Engineer. The written justification must demonstrate an anticipated actual increase in the time required to complete the Work beyond that allowed by the Contract as adjusted by prior change orders or amendments to the Contract, not just an increase or decrease in the time needed to complete some portion of the total Work. No increase to the Time for Completion shall be allowed unless the additional or changed Work increases the length of the critical path. Approved increases in time required to complete the Work shall be added to the Time for Completion. Decreases in time as a result of the change order shall be demonstrated by a decrease in the critical path of the Work if Construction Project Manager scheduling is properly used and updated by the Contractor. If no Construction Project Manager is used, the County shall determine the appropriate decrease by the best means possible. Approved decreases in the time needed to complete the Work shall be deducted from the Contract completion date. The change to time and Contract price allowed by each change order shall include all time and monetary impacts of the change, whether the change order is considered alone or with all other changes during the course of the project. Failure to include a change to time and Contract price in a change order shall waive any change to the time and Contract price unless the parties mutually agree in writing to postpone a determination of the change to time and price resulting from the change order. Such a determination may be postponed not more than forty-five days to give the Contractor an opportunity to demonstrate a change in the time and price needed to complete the Work.

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

10.3 Minor Changes in the Project (Realignment of Work)

The County and/or Architect/Engineer will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Construction Completion Date and not inconsistent with the intent of the Drawings and Specifications. Such changes shall be affected by written order. Documentation of changes shall be determined by the Construction Team, and included in the Project Manual. Changes shall be approved by the Project Director or Architect/Engineer. It shall be in the County's discretion as to whether a Realignment of Work requires the Architect/Engineer signature. All changes or realignments of work performed within the Guaranteed Maximum Price will not include overhead, profit or General Condition additional costs, since costs are absorbed within the Guaranteed Maximum Price. In any emergency affecting the safety of persons or property, the Contractor shall act at his discretion, to prevent threatened damage, injury or loss. Any increase in the Guaranteed Maximum Price or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 10.

Article 11 - Discounts

11.1 All discounts for prompt payment shall accrue to the County to the extent the Cost of the Project is paid directly by the County or from a fund made available by the County to the Contractor for such payments.

To the extent the Cost of the Project is paid with funds of the Contractor, all cash discounts shall accrue to the Contractor. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Project.

Article 12 - Payments to the Construction Manager

12.1 Monthly Statements

The Contractor shall submit to the County a sworn statement along with the Certificate for Payment, showing in detail all monies paid out, cost accumulated or costs incurred on account of the Cost of the Project during the previous period and the amount of the Contractor's fees due as provided in Article 8. This data shall be attached to the Certificate for Payment Form shown in **Attachment "H"**, and shall include, but not be limited, to the following:

A. Daily Reports.
B. Updated Project Schedule.
C. Daily Red line As-Builts review.
D. Provide a billing report with each payment application that shows a breakdown of costs incurred by line item. This report should correspond with the amounts being charged on the Schedule of Values.
E. Provide backup copies of all invoices that the County is being billed for, including vendor invoices, payments to subcontractors, cell phone statements, insurance, petty cash receipts, etc. These invoices should be coded by the line item in order to correspond to the billing report and Schedule of Values.
F. Provide backup copies and documentation of all costs incurred under General Conditions.
G. Provide backup copies of all payroll that details which labor amounts were paid to whom on a weekly basis.
H. Provide copies of all subcontractor contracts.

The amounts charged on the Payment Application must be accurate and correspond with the total dollar amount of backup provided by the Contractor.

Payment by the County to the Contractor of the statement amount shall be made in accordance with Section 218.735, Florida Statutes.

Ten percent of each payment shall be held by the County as retainage until fifty percent completion of such Project, which

shall be deemed to have occurred when fifty percent of the Guaranteed Maximum Price, as increased or decreased from time to time, has been expended. At that time, the retainage shall be reduced to five percent and the Contractor shall be entitled to request payment or release of up to fifty percent of the previously withheld retainage amounts, provided the retainage is not the subject of a good faith dispute, the subject of a claim brought pursuant to s. 255.05, Florida Statutes or otherwise the subject of a claim or demand by the County.

County may refuse to certify payment and withhold a Certificate for Payment in whole or in part, in accordance with subsections above, to such extent as may be reasonably necessary to protect the County from loss because of:

A. defective work not remedied;

B. third party claims filed or reasonable evidence indicating the probable filing of such claims;

C. failure of Contractor to make payments properly to subcontractors, consultants, or for labor, materials or equipment;

D. evidence that the Project cannot be completed for the unpaid balance of the Guaranteed Maximum Price, as adjusted;

E. evidence that the Work will not be completed by the Scheduled Completion Date, as adjusted, and that the unpaid balance would not be adequate to cover the liquidated damages for the anticipated delay;

F. failure to carry out the Work of the Project in accordance with the Contract Documents; or

If the County is unwilling to certify payment in the amount of the Application for Payment submitted by the Contractor, County will provide Contractor with written reasons for its refusal, within three days. If Contractor and County cannot agree on a revised amount, County will, within one day of the aforesaid notification, promptly issue a Certificate for Payment as to the undisputed amount with respect to which County concurs.

12.2 Final Payment

Final payment constituting the unpaid balance of the Cost of the Project and the Contractor's fee shall be due and payable in accordance with Florida Statutes after an acceptable Certificate of Final Completion has been issued **and all contractual closeout obligations have been met by the Contractor**. Before issuance of final payment, the Contractor, subcontractors and agents shall submit original, sworn, notarized statements that all payrolls, material bills, and

other debts connected with the Project have been paid or otherwise satisfied, warranty information is complete, Instruction and documentation for the County's operating and maintenance personnel is complete.

12.3 Payments for Materials and Equipment

Payments will be made for material and equipment not incorporated in the work but insured, itemized, delivered and suitably stored at the site or another location subject to prior approval and acceptance by the County on each occasion.

12.4 Withholding Payments to Subcontractors

The Contractor shall not withhold payments to subcontractors if such payments have been made to the Contractor. In the event that the Contractor withholds payments to subcontractors for any reason, the Contractor shall immediately return such monies to the County, adjusting pay requests and project bookkeeping, as required.

Article 13 - Insurance, Indemnity Waiver of Subrogation

13.1 Indemnification

A. The Contractor agrees to indemnify and hold harmless the County, and its employees and agents, from all claims, losses and expenses, arising out of or resulting from the performance of the products or services to be contracted, provided such claim, damage, loss or expense:

1. is attributable to bodily injury, sickness, disease, death or personal injury, or to property damage, including loss of use resulting therefrom, (but not loss of use for which liquidated damages are assessed under the Contract) and

2. is caused in whole or in part by any act or omission, negligent or otherwise, of the Contractor, any subcontractor, any of their employees and/or agents in the performance of this contract. The Contractor agrees that it will pay the costs of the County's legal defense, including reasonable fees of attorneys as may be selected by the County, and shall defend, satisfy, and pay any judgments which may be rendered against the County in connection with the above hold harmless language. The Contractor acknowledges specific consideration has been received for this hold harmless/indemnification provision.

B. The County shall cause any other Contractor who may have a contract with the County to perform construction or installation work in the area where work will be performed under this Contract, to agree to indemnify the County and the Contractor and hold them harmless from all claims for bodily injury and property damage (other than property insured under Subsection 13.2 that may arise from the Contractor's operations.

C. Loss Deductible Clause - The County shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor and/or Subcontractor providing such insurance.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28.

13.2 Insurance

A. The Contractor shall not commence any construction work in connection with this Contract until the Contractor has obtained all of the following types of insurance and such insurance certificates have been submitted to the County and have been approved by the County, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until all insurance required of the Subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in the State of Florida.

1. **Commercial General Liability -** Including but not limited to bodily injury, property damage and personal injury with limits of not less than Two Million Dollars per occurrence, including products and completed operations, to include:

   a) **"XCU" (Explosion, Collapse, Underground Damage) -** The Contractor's Liability Policy shall provide "XCU" coverage.

   b) **Broad Form Property Damage Coverage, Products and Completed Operations Coverage -** The Contractor's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages.

   c) **Contractual Liability Work Contracts -** The Contractor's Liability Policy shall include Contractual Liability Coverage designed to protect the Contractor for contractual liabilities assumed by the Contractor in the performance of this Contract.

2. **Automobile Liability -** Including bodily injury, property damage liability for all vehicles owned, hired, leased and non-owned with limits of not less than Two Million Dollars per occurrence.

3. **Worker's Compensation -** Workers Compensation insurance providing statutory benefits as required in the State of Florida. The Contractor shall require any Subcontractor to provide evidence of this coverage. Additionally, if the contract requires working on or around a navigable waterway, the Contractor and all Subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in

compliance with Federal statutes or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each Subcontractor, vendor or supplier.

4. **Professional Liability Insurance -** In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the vendor shall also be protected by a Professional Liability Insurance Policy in the amount of One Million Dollars per occurrence.

5. **Builders Risk Insurance -** In the event the contract involves services related to construction projects, the vendor shall also procure and maintain a Builders Risk Insurance Policy or Installation Floater with loss limits equal to the value of the construction project and issued to provide coverages on an "all risk" basis including theft.

In addition to the above, Specialty Insurance policies covering specific risks of loss (including but not limited to, for example; Longshore coverage, Crane and Rigging, Inland Marine, etc.) may be required by Brevard County Risk Management. Any additional specialty insurance coverage requirement will be dictated by the specific goods, products or services provided under the subject contract and insurance underwriting standards, practices, procedures or products available in the commercial insurance market at the time of the contract inception. The Vendor is required to procure and maintain all such specialty coverage in accordance with prudent business practices within the Vendors industry.

B. **Performance and Payment Bonds -** With limits of not less than one hundred percent of the total construction cost of this project. Payment and Performance Bond shall be recorded in the official record of the County in which the project is located. These bonds shall remain in effect at least until one year after the date when the final payment is approved. Any bonding company submitting a Bid Bond, Performance Bond or Payment Bond to Brevard County must be licensed to transact a fidelity and surety business in the State of Florida, and hold a Certificate of Authority from the Secretary of the Treasury under Act of Congress, approved by July 30, 1947 (United States Code 613), and approved by Brevard County. Acceptable surety companies shall be licensed to do business in Florida and shall have an A.M. Best Rating of "A-" and financial size V or higher.

The Contractor shall require each of its subcontractors to procure and maintain insurance during the life of the respective subcontracts.

C. **Certificate of Insurance -** The County shall be furnished proof of coverage of Insurance as follows:

Certificates of Insurance will be furnished to the County within five days of the issuance of the Notice to Proceed. All Certificates of Insurance shall be completed and signed by the

authorized Resident Agent, and shall be dated and show:

1. The name of the insured Contractor, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date.

2. The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the Brevard County Board of County Commissioners as an additional insured to the extent of liability assumed by the Contractor under this Contract, and that these policies may not be canceled or modified without thirty days prior written notice to the County.

3. The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the Contractor under the terms of the Contract.

Certificates of Insurance shall be submitted to the County within five days of Notice to Proceed, and no work shall commence on site until all submitted Certificates of Insurance are acceptable to the County.

13.3 Waiver of Subrogation

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

13.3.2 The County and Contractor waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Contractor shall require similar waivers from all subcontractors and their sub- subcontractors.

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

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

Article 14 - Termination of the Contract and County's Right to Perform Construction Manager's Obligation

14.1 Termination by the Contractor

If the Project is stopped for a period of thirty days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor, or if the Project should be stopped for a period of thirty days by the County, then the Contractor may, upon written notice to the County within seven days of such act, request undisputed payment for all work executed, the Contractor's fee earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit, damages and terminal expenses incurred by the Contractor.

14.2 County's Right to Perform Contractor's Obligations and Termination by County for Cause

A. If the Contractor fails to perform any of its obligations under this Contract, the County may, after seven days written notice during which period the Contractor fails to perform such obligations, make good such deficiencies. The Guaranteed Maximum Price, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the County to making good such deficiencies and the Contractor's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

B. If the Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, or if it persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls forty-five days or more behind schedule) which has been adopted by the Construction Team, or if it fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract, then the County may, without prejudice to any right or remedy and after giving the Contractor and its surety, if any, seven days written notice, during which period Contractor fails to cure the violation, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and may finish the Project by whatever method he may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable termination expenses incurred by the County may be deducted from any payments left owed to the Contractor (excluding monies owed the Contractor for

subcontract work).

14.3 Termination by County for Convenience

A. If the County terminates this Contract other than pursuant to Subsection 14.2 or Subsection 14.3, the County shall reimburse the Contractor for any unpaid cost of the Project due it under Article 9, plus that part of the unpaid balance of the Construction Phase Fee in an amount as will increase the payment on account of its fee to a sum which bears the same ratio to the Construction Phase Fee as the Cost of the Project at the time of termination bears to the Guaranteed Maximum Price, if established, otherwise to the County's Construction Budget. The County shall also pay to the Contractor fair compensation, either by purchase or rental at the election of the County, for any equipment retained. In case of such termination of the Contract, the County shall reimburse the Contractor for obligations and commitments made before notice of termination was received by the Contractor.

B. After the establishment of the Guaranteed Maximum Price or at the completion of the Construction Phase, if the final cost estimates or lack of legislative funding make the Project no longer feasible from the standpoint of the County, the County may terminate this Contract and pay the Contractor its proportionate fee due in accordance with Subsection 8.1, plus any costs incurred pursuant to Articles 9 and 10.

C. Any termination by County for cause which is later determined to be invalid shall be considered a termination for convenience by the County.

14.4 Termination for Prohibition Against Contracting With Scrutinized Companies

A. The Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this Contract at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Contract.

If this Contract is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, Florida Statutes, the County may immediately terminate this Contract at its sole option if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector

List, or engaged with business operations in Cuba or Syria during the term of the Contract.

The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

B. As required by Section 287.135(5), Florida Statutes, prior to entering into a contract in excess of one million dollars to provide goods or services to Brevard County, an individual with authority to execute this Contract for the Contractor shall file a sworn statement with the contracting officer or Purchasing Director, as applicable verifying that none of the three conditions above exist. If the Contractor is found to have falsified the affidavit attached as **Attachment "I"**, the County may terminate the contract.

C. If subsequent to the submittal of the attached affidavit, the Contractor: (1) has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel; (2) is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or (3) is engaged in business operations in Cuba or Syria, the County may terminate this Contract.

D. Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract. As provided in Section 287.135(8), Florida Statutes, if Federal law ceases to authorize these contracting prohibitions, this Subsection shall become inoperative and unenforceable.

Article 15 - Assignment; Governing Law; Venue; Severability

15.1 Neither the County nor the Contractor shall assign their respective interest in this Contract without the written consent of the other except as to the assignment of proceeds.

15.2 This Contract shall be governed by the Laws of the State of Florida.

15.3 Venue and Attorney's Fees: Venue for any legal action brought by any party to this Contract to interpret, construe or enforce this Contract shall be in a court of competent jurisdiction in and for Brevard County, Florida. In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

15.4 Severability: If any provision of this Contract is held by a Court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired

Article 16 - Notice of Claim: Waiver of Remedies; No Damages for Delay; Dispute Resolution

16.1 The County's liability to Contractor for any claims arising out of or related to the subject matter of this Contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the County of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:

A. All claims must be submitted as a Request for Change Order in the manner as provided herein.

B. If the Contractor claims that any instructions given to him by the Architect/Engineer or by the County, by drawings or otherwise, involve extra Work not covered by the Contract and not discoverable with a review of the plans and specifications, then, except in emergencies endangering life or property, Contractor shall give the County and Architect/Engineer written notice thereof before proceeding to execute the Work. Said notice shall be given promptly enough to avoid delaying the Work and in no instance later than twenty days after the receipt of such instructions.

C. The Contractor must submit a Notice of Claim to the County and Architect/Engineer within twenty days of when the Contractor was or should have been aware of the occurrence of the event giving rise to the claim.

D. Within ten days of submitting its Notice of Claim, the Contractor shall submit to the County its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected. Within thirty days from the Notice of Claim the Contractor shall submit a detailed schedule impact and detailed cost analysis indicating quantities, unit prices, etc. establishing the basis for the amount of the claim.

E. The Contractor agrees that the County shall not be liable for any claim that the Contractor fails to submit as a Request for Change Order as provided in this section.

16.2 After receipt of a Request for Change Order, the County, in consultation with the Architect/Engineer shall deliver to the Contractor its written determination of the claim. As to disputed matters subject to the determination by final County action (not actions for breach of contract or tort), the County's written decision following compliance with the dispute resolution procedure set forth in Subsections 16.4 through 16.6 below shall be final County action.

16.3 For work the Contractor performs with its own forces, and in addition to the adjustments provided for in Article 8, the Contractor's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or

attributable to the County or the Architect/Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Subsection 16.1 above, for an extension of the scheduled construction time. In the event of a change in such work that will modify the Guaranteed Maximum Price, the Contractor's claim for adjustment in contract sum are limited exclusively to its actual costs for such changes, including costs involved in claim preparation, plus five percent overhead, five percent profit and a two percent bond in the General Conditions. The Contractor expressly agrees that the foregoing constitute its sole and exclusive remedies for delays and changes in such work, and eliminate any other remedies for claim for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

16.4 In the event of any dispute over a proposed change order or any other matter arising out of the implementation or interpretation of this Contract the following dispute resolution process shall apply.

A. Within three days after denial of a Contractor's change order or contract modification request in an amount, individually or in total, less than the authorized purchasing level approved for the County Manager by the County Commission (currently at one hundred thousand dollars), the Contractor may submit to the County Manager, or his/her designee, documentation of the Contractor's position in the dispute or disagreement. The County Manager, or designee, within five days after the receipt of the Contractor's documentation, shall review the request and make a final determination as to whether denial was arbitrary and capricious based upon the sufficiency of the work under the terms of this Contract, applicable regulations, and/or relevant construction standards. Based upon the sufficiency and degree of completion, as well as any defects in the work and the amount reasonably required, if any, to correct or repair defective work, the County Manager, or designee, shall make the final determination as to whether a written change order or contract modification should be approved.

B. If the denied request or disputed amount exceeds the County Manager's purchasing authority, the County Manager shall present a report, recommendation and the Contractor's claim and documentation, to the County Commission for a final determination within thirty days after receiving the Contractor's documentation for the claim. The Commission shall make its decision using the standards specified in subparagraph (A) above.

16.5 Within thirty days after denial of a request for a change order or contract modification by the Contractor involving (1) an amount in excess of the County Manager's expenditure authority or (2) for the amount the Contractor claims to be due at the time the Project is ready for beneficial use or occupation, the County may, at the County's option in lieu of the procedure specified in Subsection 16.4, submit the dispute to a mediator with knowledge or experience in construction management, as agreed upon by the Contractor and the County. Upon referral to a

mediator, the County and Contractor shall each pay half the estimated cost of the mediator, up front. Within fifteen days after the date of submittal, the mediator, applying the standards set forth in Subsection 16.4, shall investigate the dispute and submit a written recommendation for disposition of the dispute to the County Manager, or designee, with the qualifications specified in Subsection 16.4. Within fifteen days after receiving the mediator's recommendation, the County Manager shall submit the recommendation to the County Commission, along with a staff report analyzing the dispute and mediator's recommendation. Based on the standards set forth in Subsection 16.4 above, the County Commission shall decide whether to grant or deny, in whole or in part, the amounts recommended by the mediator. The County Commission's decision will be deemed final action on the disputed claim for the purposes of ripening the decision for judicial review. If the mediator recommends that no change order or contract modification be granted, the Contractor shall reimburse the County for any amounts paid by the County to the mediator.

16.6 The deadlines for completing the dispute resolution process described in Subsections 16.4 and 16.5 may be extended by mutual written agreement of the Contractor and the County.

Article 17 - County's Right to Perform Construction and to Award Separate Contracts

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

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

17.3 Unless otherwise provided in the Contract Documents, when the County performs construction or operations related to the project with the County's own forces, the County shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract.

17.4 The Contractor shall afford the County, and separate contractors, reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities

and shall connect and coordinate the separate contractors' construction and operations with the Contractor, as required.

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

17.6 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible thereof.

17.7 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the County or separate contractors.

Article 18 – Federal Emergency Management Agency (FEMA) Requirements

During the performance of this Contract, the Contractor agrees as follows:

18.1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to all employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

18.2. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

18.3. The Contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

18.4. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.

18.5. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

18.6. In the event of the Contractor's non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

18.7. The Contractor shall include the portion of the sentence immediately preceding paragraph (18.1) and the provisions of paragraphs (18.1) through (18.7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

18.8. Clean Air Act and the Federal Water Pollution Control Act: (For all contracts in excess of $150,000)

A. Clean Air Act –

1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2) The Contractor agrees to report each violation to the County through its Parks and Recreation Department and understands that the Brevard County Parks and Recreation Department will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3) The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

B. Federal Water Pollution Control Act -

1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2) The Contractor agrees to report each violation to the County through its Parks and Recreation Department and understands and agrees that the Brevard County Parks and Recreation Department will, in turn, report each violation to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3) The Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

18.9. Suspension and Debarment:

A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that neither the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

B. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

C. This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida (Division of Emergency Management) and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

D. The Contractor 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 Agreement is valid. The Contractor agrees to include a provision requiring such compliance in its lower tier covered transactions.

18.10. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended):

Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the recipient.

18.11. Procurement of Recovered Materials:
In the performance of this Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

A. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
B. Meeting Agreement performance requirements; or
C. At a reasonable price.
D. Information about this requirement, along with the list of EPA-designate items, at EPA's Comprehensive Procurement Guidelines.

18.12. Additional FEMA Requirements:

A. Access to Records:
1) The Contractor agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers and records of the CONSTRUCTION MANAGER which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3) The Contractor agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Agreement.

B. DHS (Department of Homeland Security) Seal, Logo and Flags:
The Contractor shall not use DHS seals, logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

C. Compliance with Federal Law, Regulations and Executive Orders:
The Contractor acknowledges that FEMA financial assistance will be used to fund this Agreement and resulting Agreements only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures and directives.

D. No Obligation by Federal Government:
The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the Agreement.

E. Fraud and False or Fraudulent or Related Acts:
The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False

Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.

Article 19 - Miscellaneous

19.1 Interest

Any monies not paid when due to either party under this Contract shall not bear interest except as may be required by Section 218.70, et seq., Florida Statutes, ("The Florida Prompt Payment Act").

19.2 Harmony

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

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

19.3 Apprentices

If the Contractor employs apprentices on the Project, the behavior of the Contractor and the County shall be governed by the provisions of Chapter 446, Florida Statutes, and by applicable standards and policies governing apprentice programs and agreements established by the Division of Labor of the State of Florida Department of Labor and Employment Security. The Contractor shall include a provision similar to the foregoing sentence in each subcontract.

19.4 Minority Participation

The Contractor shall diligently attempt to award its material contracts, subcontracts and sub-subcontracts to firms having a letter of certification as a minority business from the Office of Minority Business Assistance, Department of General Services, or any other Federal, Florida, County or City certification.

19.5 Minority Employment Information

The County requires construction contractors, who would otherwise be required to file and Equal Employment Opportunity Form 1 Report under Federal Law (currently Federal law requires filing for employers with more than fifteen employees), to submit an Equal Employment Opportunity Form 1 Report with the submission of their Guaranteed Maximum Price. This requirement extends to any subcontractors who are required to submit the Equal Employment Opportunity Form 1 Report (over fifteen employees) under Federal law. Failure to submit an EEO Form 1

Report with the Guaranteed Maximum Price will be reason to declare the submission "non-responsive". However, the information will be used for statistical purposes only and will not be used in any way as a basis to award a contract. See **Attachment "J"**.

19.6 Public Entity Crime Acknowledgement
Attached as **Attachment "K"**.

19.7 Non-Collusion Affidavit of Prime Bidder
Attached as **Attachment "K"**.

19.8 Copyright Clause
No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by Contractor in the United States or any other Country.

19.9 E-Verify:

A. The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor during the term of the Contract; and

B. The Contractor shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term; and

C. The Contractor agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participations by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program.

D. The Contractor's compliance with the terms of this section is made an express condition of this Contract and the County may treat a failure to comply as a material breach of this Contract.

E. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the contractor hires or employs a person who is not eligible for employment.

F. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

In Witness Whereof, the parties have hereunto set their hands and seals on the day and year written herein below.

Attest:

Scott Ellis, Clerk of Courts

Board of County Commissioners of Brevard County, Florida

By: _____
Kristine Isnardi, Chair Date

As approved by the Board on April 24, 2018

Reviewed for Legal Form and Content

Abigail Forrester Jorandby

Canaveral Construction Co., Inc.

By: _____ 10/11/19
J. David Nash, President Date

State of Florida
County of Brevard

The foregoing instrument was acknowledged before me this 11 day October of 2019 by J. David Nash whose position is President with the firm of Canaveral Construction Co., Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced Florida D.L. # 456-D as identification.

Notary Public

MARY BETH DOUD
Typed/Printed Name

MARY BETH DOUD
Commission # GG 302369
Expires April 7, 2023
Bonded Thru Budget Notary Services

Notary Public

Typed/Printed Name

Attachment "A" - Direct Purchasing Procedure

Intent: The County intends that these procedures govern the County's direct purchases of selected materials so that the County may take advantage of its tax-exempt status. All monies which would have been payable as taxes, if not for County direct purchase under these procedures, will inure solely to the benefit of the County. The County's direct purchase of materials will not minimize or conflict with the Contractor's responsibility for the purchase, installation, coordination, storage, protection, warranty, etc. of the materials as described herein and, in the plans, and specifications of the Contract.

Definitions: For the purpose of these Procedures, the following words have the following definitions:

Contract: Construction Manager Contract by and between the Contractor and the County to provide labor, materials, and equipment for: dock and walkway repair at Intracoastal Waterway Park.

County: See Definition in Article I, Section 1.3.

County Purchased Materials: Materials purchased directly by the County through execution and delivery of a Purchase Order.

County's Representative: See Definition in Article I. Section 1.3.

Guaranteed Maximum Price (GMP): Guaranteed Maximum Price established under the Contract.

Materials: Tangible Personal Property necessary for completion of the Project.

Materials Deduction Summary: Written document signed by the County's representative and Contractor setting forth the amounts of County Purchased Materials, plus applicable taxes were the purchase not exempt from such taxes, as reflected in the parties' previously executed deductive change orders to the Contract showing deduction of such Materials from the GMP.

Project: See Definition in Article I., Section 1.3.

Purchase Order: The County's request for Materials from a particular vendor or supplier when fully executed and delivered to the Contractor, and the County's promise to pay for the Material specified upon delivery and acceptance at the Project site, and presentation of an invoice by the Contractor to the County certifying payment of same.

Material Requisition: A request by the Contractor to the County that the County directly purchase specific items described in sufficient detail, including quantity, grade, brand, etc. along with the vendor or material supplier and that vendor or material supplier's quoted price for the Materials.

Overview: The County requires the Contractor to notify the County's representative of Materials needed for the Project exceeding Five Thousand Dollars in value, through a Material Requisition form. For the purpose of these Procedures, the Contractor shall assign to the County any rights the Contractor may have under quotes, contracts or commitments received from the particular vendor or supplier for the Materials described in the Material Requisition. Any Materials purchased by the County pursuant to these Procedures shall be referred to as "County Purchased Materials", and the responsibilities of the County and Contractor relating to such County Purchased Materials shall be governed by the terms and conditions of these Procedures, which shall take precedence over other conditions and terms of the Contract documents where inconsistencies or conflicts exist. The invoiced amount of County Purchased Materials and applicable sales tax had the purchases not been tax exempt, once finalized through the County's Purchase Order and after confirmation of completed delivery and acceptance pursuant to this Procedure will be deducted from the GMP, as defined in the Contract, by deductive change order.

County Direct Purchasing Requirements and Procedures: When a Materials purchase for the Project is estimated to be $5,000 or greater and time allows for an Owner Direct Purchase, Contractor shall prepare a Material Requisition form, (to be provided by the County), acceptable to County, and which specifically identifies Materials which County may, in its discretion, elect to purchase directly. The Material Requisition form shall be complete when submitted, and all information requested provided. Along with the Material Requisition the Contractor shall provide.

A. The name, address, telephone and fax number and contact person for the material supplier;

B. Manufacturer or brand, model or specification number of the item;

C. Quantity needed as estimated by Contractor;

D. The price quoted by the supplier for the Materials identified therein;

E. Any sales tax associated with such quote if it were not purchased by a tax-exempt entity;

F. Shipping and handling cost, including associated insurance;

G. Delivery dates as established by the Manager;

H. Subcontractor's written acknowledgement of these Procedures for County Director Purchase of Materials.

After receipt of the Material Requisition, the County's Representative will determine whether the County will directly purchase the Materials described in the Material Requisition, and communicate consent or decline to purchase the materials to the Contractor within twenty-four hours. Brevard County's Purchasing Department shall be the County's approving authority on Purchase Orders of County Purchased Materials. If the County consents to purchase the Materials, the County shall issue a Purchase Order for same. The County shall issue the original Purchase Order, and the Contractor shall deliver the Purchase Order to the subcontractor. The Purchase Order shall require (1) that the supplier provide the required shipping, (2) that the supplier provide the required shipping and handling insurance, and (3) delivery of the County Purchased Materials on the delivery dates provided by the Contractor in the Material Requisition.

The Contractor shall be fully responsible for all matters relating to the receipt of County Purchased Materials under these Procedures, including, but not limited to preparation of shop drawings and submittals, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials due to the negligence of the Contractor. The Contractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Contractor for the Materials furnished. The contractor shall provide all services required for the unloading, handling and storage of materials through installation. The Contractor agrees to indemnify and hold the County harmless from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions of the Contractor.

The Contractor shall insure that County Purchased Materials conform to the Specifications, and determine prior to incorporation in the Project, if such Materials are patently defective, and whether such Materials are identical to the Material ordered and match the description on the bill of lading. As County Purchased Materials are delivered to the job site, the Contractor shall inspect all shipments from the suppliers, and, if in conformance with the Purchase Order, approve the vendor's invoice for materials delivered. The Contractor shall assure that each delivery of County Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of an itemized delivery ticket, packing slip or invoice from the supplier conforming to the Purchase Order against which the purchase is made, together with such additional information as the County may require. The Contractor shall then forward the documentation to the County.

If the Contractor discovers defective or non-conformities in County Purchased Material upon inspection, the Contractor shall not use such non-conforming defective Materials in the Project and instead shall promptly notify the County of the defective or non-conforming conditions and coordinate the repair or replacement of those Materials without any undue delay or interruption

to the Project. All repair, maintenance or damage-repair calls shall be forwarded to the Contractor for resolution with the appropriate supplier, vendor or subcontractor. If the Contractor fails to perform such inspection, the condition of which the Contractor either knew or should have known by performance of an inspection, the Contractor shall be responsible for all damages to the County resulting from Contractor's incorporation of such Materials into the Project, including liquidated or delay damages.

On a bi-weekly basis, the Contractor shall be required to review invoices submitted by all suppliers of County Purchased Materials delivered to the Project Site during that month and either concur or object to the County's issuance of payment to the suppliers, based on the Contractor's records of materials delivered to the Project. In order to arrange for the prompt payment to the supplier, the Contractor shall provide to the County a list indicating the acceptance of the goods or materials within fifteen days of receipt of said invoice for goods or materials. The list shall reference the applicable purchase order and include a copy of the invoiced, delivery tickets written acceptance of the delivered items, and such other documentation in duplicate, the County shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be delivered directly to the supplier. If any discounts are available from the supplier or vendor, said discounts shall accrue to the benefit of the County, and the amount quoted by the vendor, plus applicable tax, shall be deducted from the GMP. The Contractor agrees to assist the County to immediately obtain partial or final releases or waivers as appropriate.

Following performance of the Purchase Orders by the suppliers, and submittal of documentation confirming same to County with an invoice for payment by County, the Contractor shall execute and deliver to the County at the end of each month along with the Contractor's regular pay requests, a Materials Deduction Summary setting forth the full value of all County Purchased Materials, plus all taxes which would have been payable on the purchase of the Materials had the purchased materials not been County purchased. The Materials Deduction Summary shall show all sums to be deducted by an appropriate deductive change order, and ultimately the GMP, to date. The Board of County Commissioners, or their authorized representative, shall be the approving authority for the County on the Materials Deduction Summary for County Purchased Materials.

The Contractor shall maintain records of all County Purchased Materials incorporated in the Project. These records shall be available for inspection by the County upon request.

Notwithstanding the delivery of County Purchased Materials to the Project site for the Contractor's inspection, custody and incorporation into the Project, the County shall retain legal and equitable title to any and all County Purchased Materials. The transfer of possession of County Purchased Materials from the County to the Contractor shall constitute a bailment for the mutual benefit of the County and the Contractor solely for the purposes set forth herein. The

County shall be considered the bailer and Contractor the bailee of the County Purchased Materials. County Purchased Materials shall be considered returned to the County for purposes of their bailment at such time as the purchased materials are incorporated in the Project or are returned to the vendor or supplier at the discretion of the Contractor prior to payment for the Purchase Order by the County.

The County shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to County Purchased Materials. Such insurance shall cover the full value of any County Purchased Materials not yet incorporated into the Project from the time the Owner first takes title to any of such County Purchased Materials and the time when the last of such County Purchased Materials is incorporated into the Project, or are returned to the vendor at the Contractor's discretion prior to County's payment for same.

The County shall in no way be liable for any interruption or delay in the Project, for any defects or other problems with the Project, or any extra costs or time resulting from any delay in the delivery of, or defects in, County Purchased Materials.

Attachment "B" - Ordinance 98-37

An Ordinance amending Chapter 2 of the Brevard County Code to create Article VII, a Procedure for Prequalifying Construction Contractors, for Competitive Bidding Criteria and for Debarment of Construction Contractors and Sureties; Providing for alternative Construction Delivery Methods; Providing for Prequalification and Competitive Bidding Criteria, Procedure, and for a Standard of Proof; Providing for Editing of the Ordinance for Inclusion within the Brevard County Code; Providing for Severability; and Providing an Effective Date.

Whereas, Section 255.20, Fla. Stat. (1997) requires that standards and procedures for determining the lowest qualified and responsive bidder or award of a construction contract under and delivery method be established if a bidder is selected for any reason other than price; and

Whereas, the Board has determined that it is in the public's best interest to provide such standards and procedures so that the Board may select the most qualified and responsive bidder; and

Whereas, the Board has determined that is in the public's best interest to prevent construction firms and sureties who have defaulted on a previous contract with the County from future bidding on County projects through a debarment procedure;

Therefore, be it ordained by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1: Chapter 2 of the Brevard County Code shall be amended to create Article VII as follows:

Definitions: The following words shall have these meanings throughout this article:

"Affected Party" means an individual or business which has submitted a bid, offer, proposal, quotation, or response which is rejected, or is found unqualified under the provisions of this article, or which would be selected if a low bidder was found unqualified or nonresponsive.

"Board" means the Board of County Commissioners of Brevard County, Florida.

"Committee" means two or more persons designated to evaluate prequalification and responsiveness criteria. Committees established by the County Manager may be

intradepartmental, or include representatives of several departments interested in the administration and success of the construction project.

"Debarment" means the exclusion for cause of a vendor or contractor, or subcontractor from bidding or doing business with the County on a temporary or permanent basis.

"Minor Irregularity" means a variation from the Invitation to Bid which does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders, or does not adversely impact the interests of the agency.

"Qualified Bidder" means an individual or business which has submitted a bid, offer, proposal, quotation, or response, which has the capability in all respects to fully perform the contract requirements, and has the financial stability, honesty, integrity, sill, business judgement, experience, facilities and reliability necessary to give reasonable assurance of good faith and performance.

"Request for Qualification" ("RFQ") means the process by which the County may prequalify individuals or businesses for a particular project before request5ing bids for the project, thereby limiting the pool of bidders to these prequalified.

"Responsive Bidder" means an individual or business which has submitted a bid, offer, proposal, quotation, or response, which conforms in all material respects to the solicitation, including but not limited to compliance with the submittal of specified insurance and bond requirements.

1. Any County Contract for the construction or improvement of a public building, structure, or other public construction work that is estimated in accordance with general accounting principles to have construction costs of more than fifty thousand dollars shall be competitively awarded to the lowest, qualified and responsive bidder in accordance with this article, unless the project (1) fits within exceptions set for in s. 255.20, Fla. Stat., as amended from time to time, (2) is a contract governed by the Consultant's Competitive Negotiation Act, or (3) is awarded under another contract delivery method authorized by this article. Nothing in this article shall be construed to require competitive award of every County construction work, not to prohibit the Board from rejecting all bids if competitively bid, or to prevent the board from waiving minor irregularities in any bid.

2. (a) Potential lump sum bidders responding to a request for qualifications are required to submit information required by this article and as identified in the RFQ package. A committee identified in the RFQ package will determine whether a potential bidder is qualified and responsive as defined in this article.

   (b) For projects advertised for lump sum bid without prior prequalification, the apparent low bidder, after the formal bid opening, will be required to submit the following prequalification

information identified in the bid package within five business days after the bid opening. Failure to provide prequalification information within this time frame may be considered as grounds for finding the apparent low bidder nonresponsive. If the apparent low bidder cannot provide adequate documents for review, or the submitted documents indicate the apparent low bidder or any subcontractors are not qualified, or if the bidder's package is determined to be nonresponsive, the Committee will reject the bidder or any of its subcontractors. In the event the bidder is found unqualified or non-responsive, the apparent second low bidder will be contacted and afforded the previous mentioned five days to submit pre-qualification documents. This process will continue until the lowest qualified and responsive bidder is established. In the even that a subcontractor is found unqualified or non-responsive, the potential bidder or prime contractor will have five business days to submit a substitute subcontractor for the same bid price or withdraw the original bid.

(c) In addition to lump sum contracts for construction, the Board may use the following delivery methods for construction or improvement of a public building, structure, or other public construction work: construction manager, design/build, or continuing contracts based on unit prices. The Board may also enter into continuing contracts with construction managers using the pre-qualification procedure set forth herein for potential lump sum bidders. The individual projects shall be awarded under a continuing contract using the following criteria:

> Ability of professional personnel given project's special characteristics; past performance, willingness to meet time and budget requirements; location; recent, current and projected workloads of the firms available under continuing contract; volume of work previously awarded to each firm under a continuing contract provided distribution does not violate the principle of selection of the most qualified firm for the project; previous experience on County Projects.

The County Manager will establish procedures for the Board to hear any affected party with a complaint or appeal as to any recommendation or finding made pursuant to this article. Any affected party's complaint or appeal must be presented, in writing, to the County Manager's Office within five business days of the posting of a committee's decision.

(d) At the completion of each competitively awarded County construction project, the County department which administered the construction contract shall complete an evaluation of the contractor's performance on a form to be established by the County Manager. The department may also complete evaluations of critical subcontractors using the same form. All such records shall be copied to the party evaluated and maintained by County Purchasing. Any party evaluated may submit a written response of any length, which response shall be filed with the evaluation.

3. Potential bidders, the apparent lowest bidder, or the person providing services under any other contract delivery method, and applicable subcontractors identified in the bid or request for qualification package for any County construction project which is to be competitively awarded shall be evaluated to determine whether the bidder and its subcontractors are qualified. In evaluating qualifications, the County shall consider the following information:

    - A Contractor's Pre-Qualification Statement for the prime contractor and subcontractors performing parts of work identified in the bidding documents as critical to the project's success. The Pre-Qualification Statement shall be provided on a form to be established by the County Manager;

    - Most current financial statement, but not more than one year old, indication of bondability, or if project is under One Hundred Thousand Dollars, other evidence of financial capability as identified in the bid documents;

    - Resumes of Contractor and Subcontractor's key personnel, including project manager and superintendent levels, showing job history, education related to work to be performed and any license, training, and experience related to the work which that individual will perform;

    - List of subcontractors and suppliers, and items of work to be performed by the Contractor's own work force;

    - County evaluations of the performance on County Projects;

    - References obtained from individuals or businesses with whom the contractor or subcontractor has performed work or conducted business;

    - Any other relevant qualifications, data or information identified in the bidding documents to be critical to the success of the project.

4. The County Manager will establish committees which may debar a contractor, contractor's key personnel, contractor's surety, subcontractor and subcontractor's key personnel, or any entity which key personnel are later employed or retained by in a supervisory position, from bidding on any County project under the circumstances enumerated below. The decision to disbar is discretionary, the seriousness of the offense and all mitigating factors should be considered in making the decision to disbar. The notice of debarment shall state the time when such debarment will be lifted, if ever, and the contractor's right to appeal such debarment to the Board of County Commissioners under the Board's regular agenda. The Board reserves the power to waive or lift any committee-imposed suspension or debarment.

    An individual or business may be permanently debarred for any of the following reasons:

Conviction or a judgment obtained in a court of competent jurisdiction for:

- Commission of a fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;
- Violation of any Federal or State of Florida anti-trust or anti-racketeering statutes arising out of submission of bids or proposals;
- Commission of embezzlement, theft, forgery, bribery, falsification of or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a County contractor, subcontractor or vendor;
- If the conviction or judgment is reversed on appeal, the debarment shall be removed upon receipt of notification thereof.

Competent and substantial evidence of a violation of a County contractor provision, as set forth below, when the violation is of a character so as to justify debarment action such as:

- Failure to perform in accordance with the specifications or delivery requirements in a contract;
- A history of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts; provided, that such failure or unsatisfactory performance is within a reasonable period of time preceding the determination to debar. Failure to perform for unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered as a basis of debarment.

Upon adequate evidence, an individual or business may be temporarily debarred for a period up to three years based upon substantial evidence of involvement in any of the causes cited in paragraph (b) above.

Section 2: Inclusion in Code: It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Brevard County Code; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intentions.

Section 3: Severability: If any provision of this ordinance is held to be illegal or invalid, the other provision shall remain in full force and effect.

Section 4: Effective Date: This ordinance shall become effective upon filing as provided by law. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten days of enactment.

Attachment "C" – Public Construction Bond

By this Bond, We _____ as Principal and _____, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called County, in the sum of _____, for payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

The Conditions of this Bond are that if Principal:

1. Promptly makes payments to all claimants, as defines in Section 255.05(1), Florida Statutes, supply Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract dated _____, between Principal and County for construction of dock replacement at Tom Statham Park, the contract being attached hereto and made part of this bond by reference, in such time and without delay, and in the manner prescribed in the contract; and
2. Pays County all losses, damages, expenses, costs and attorney's fees, including appellate proceedings, that County sustains because of a default by Principal under the contract, then this bond is void; otherwise it remains in full force. Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract does not affect Surety's obligation under this bond.

Signed and sealed this _____.

Witness: Principal Seal

_____ Its:_____

Title:_____

Witness: Surety Seal

_____ Its:_____

Title:_____

Attachment "D" – Public Construction Performance Bond

By this Bond, We _____ as Principal and _____, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called County, in the sum of _____, for payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

The Conditions of this Bond are that if Principal:

1. Performs promptly, completely and faithfully the contract dated _____, between Principal and County for replacement of the dock at Tom Statham Park, the contract being attached hereto and made part of this bond by reference, in such time and without delay, and in the manner prescribed in the contract including the delivery, execution and performance of any warranty work required by the contract; and
2. Pays County all losses, damages, expenses costs and attorney's fees, including appellate proceedings, that County sustains because of default by Principal under the contract; and
3. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract does not affect Surety's obligation under this bond.

Signed and sealed this ___ day of _____, 2019.

Witness: Principal Seal

_____ Its:_____

Title:_____

Witness: Surety Seal

_____ Its:_____

Title:_____

Attachment "E" - Contractor's Guaranteed Maximum Price

CANAVERAL CONSTRUCTION COMPANY, INC

STATHAM PARK DOCK REPLACEMENT

Brevard County

BID SPREADSHEET

DESCRIPTION								BASE BID TOTAL
DIV 1 GENERAL CONDITIONS	Duration	Unit	Unit Rate	Labor	Material	Equipment	Other	
SUPERINTENDENT	16	week	2,800.00	44,800				
PROJECT ENGINEER (1/8 time)	IN FEE	week						
PROJECT ACCOUNTANT (1/4 time)	IN FEE	hrs						
SUBMITTALS	1	lpsm	750.00				750	
AS-BUILT DOCUMENTS		lpsm	1,500.00	1,500				
DOCUMENT REPRODUCTION	1	lpsm	250.00		250			
RAKEN DAILY LOG SERVICE / Photos	4	month	50				200	
				46,300	250		950	$ 47,500
DIV 1 GENERAL REQUIREMENTS	Duration	Unit	Unit Rate	Labor	Material	Equipment	Other	
BUILDERS RISK INSURANCE	1	lpsm	see below				see below	
CPM SCHEDULE	3	month	1,000	1,000				
JOB TRAILER	4	lpsm	200			800		
PORTOLET	4	month	145				580	
DUMPSTER PULLS/TRAILER	3	pulls	500			1,500		
SMALL TOOLS	1	month	350		350			
SITE SAFETY / PPE / FIRST AID SUPPLIES	1	lpsm	200		200			
DAILY CLEAN UP	60	hrs	25	1,500				
FINAL CLEAN	1	lpsm	1,000	1,000				
MATERIAL TESTING	1	lpsm	1,000	1,000				
				4,500	450	2,300	580	$ 7,830

TRADE PRICING

DIV #	DESCRIPTION	CCCI	SUB1	SUB2	SUB3	SUB4	SUB5	SUB6	SUB7	SUB8	SUB9	
		CCCI	Morgan									
DIV 1	GENERAL	21,500	10,500									$ 32,000
		21,500						0	0	0	0	
	Signs /safety	1,000										
	Survey & Layout		10,500									
	Permits	3,500										
	Concrete side walk - Allowance	3,500										
	Remove and reinstall swing set and car bumpers for access	2,000										
	Temp Fence	5,000										
	Locates	1,500										
	Tree removal Allowance	1,500										
	Sod restoration- Allowance	3,500										
		CCCI										
DIV 2	LANDSCAPING	20,000										$ 20,000
	Landscaping- Allowance per Morgan& Associate	20,000										
		CCCI	G&G	Ft. Roofing								

9/20/2019

Pricing

DIV 7	Roofing	8,600						$ 8,600
	Provide and install peel & stick and kynar coated aluminum roof (Approx.1685F) 6EA		8,631	8,600				
		CCCI	BCI	SK	SHORELINE	WILCO	FENDER	
DIV 31	MARINE	7,500				277,626		$ 285,126
	Demo 345' LF of existing dock and piles		583,100	418,000 NO BID		277,626	NO BID	
	Demo 6EA 10'x10' pavilions		Y	Y		Y		
	Set docie calming coquina rock and install 342CY of new coquina and fill in with existing coquina rock.		Y	Y		Y		
	Provide and install 345 LF of new dock and piles		Y	Y		Y		
	Provide and install 6EA 10'x10' pavilions		Y	Y		Y		
	Provide and install kynar coated aluminum roof (Approx.1685F) 6EA		Y	Y		Y		
	Provide and install 8"DIA PT piles and drive them to 8' minimum(68EA)		Y	Y		Y		
	Provide and install turbidity barrier and silt fence around project perimeter	3,600	N	N		N		
	Provide and install wetland protection mats for areas where equipment will be used.		Y	Y		Y		
	All hardware to be 304 stainless		Y	Y		Y		
	Install 2"x2" pickets @ 4" O.C		Y	Y		Y		
	Provide and install cont. 2x6 P.T side rail at dock section and pavilion section.		Y	Y		Y		
	Provide and install 2x10 Cont. P.T. top rail at dock section		Y	Y		Y		
	Provide and install 2x12 cont. P.T. top rail at pavilions section		Y	Y		Y		
	Provide 2x6/2x6 rail at pavilion (6EA)		Y	Y		Y		
	Fill dirt 20 truck loads- Allowance	4,000	N	N		N		
	SUB TOTAL COST							SUB-TOTAL $ 401,056
	GENERAL LIABILITY 0.535%							GENERAL LIABILITY 2,106
	BUILDERS RISK 0.35%							BUILDERS RISK 1,404
	SUBTOTAL							SUB-TOTAL $ 404,565
	Overhead 5% /Profit 7% 15%							OH & PROFIT 60,685
	SUBTOTAL							SUB-TOTAL $ 465,250
	CONTINGENCY 5%							CONTINGENCY 23,263
	BOND							BOND 5,334
	BID ITEM TOTAL							BID TOTAL $ 493,847

Attachment "F" - Certificate of Substantial Completion

Attachment "G" - Certificate of Final Completion

Project Number and Title: Tom Statham Park

Project Director: **Mike Butcher** Contractor: **Canaveral Construction Co., Inc.**

Contract Date:_____ Date of Final Completion:_____

Certificate of Project Director:

Based on my inspections and investigation of the Contractor's work under the above referenced contract, I certify that the work, in general, has been completed in accordance with the contract documents, that all matters previously brought to the Contractor's attention as incomplete or defective have been resolved pursuant to my direction, and that the Contractor has submitted the attached sworn affidavit as evidence that the Contractor has paid all labor, materials, and other charges against the project in accordance with the terms of the Contract.

Michael Butcher, Brevard County Parks and Recreation By:_____

Through the Substantial Completion Phase: DATE:_____ DAYS:_____

1. Notice to Proceed (NTP):
2. Time Specified in Original Contract for Substantial Completion (SC):
3. Extension granted by Change Order: (days between original contract SC and Final Contract SC)
4. Total Days Allowable to Substantial Completion: (add lines 2 and 3)
5. Project Substantially Completed as Certified by A/E:
6. Substantial Completion Overrun: (subtract line 4 from 5 and enter overrun)

Through the Final Completion Phase: DATE:_____ DAYS:_____

1. Time Specified in Contract, between SC and Final Completion (FC):
2. Extensions granted by Change Orders: (Days between SC and FC)
3. Total Days allowable between SC and FC: (add lines 1 and 2)
4. Date Actually Completed and Total Days between and Date Certified by A/E as actually being FC:
5. Final Completion Overrun (subtract line)

Project Manager:_____ Date:_____

Attachment "H" - Application and Certificate for Payment

Attachment "I" - Vendor Affidavit Regarding Scrutinized Company List

Pursuant to Section 287.135(2), Florida Statutes, a company is ineligible to, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local government entity for goods or services of $1 million or more if at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company: (1) is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.475, or is engaged in a boycott of Israel; (2) is 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 s. 215.473 or (3) is engaged in business operations in Cuba or Syria.

If the bidder or contractor is found to have falsified the attached affidavit, the Board of County Commissioners of Brevard County may terminate the contract or reject the bid.

State of Florida

County of Brevard

Before me, the undersigned authority, personally appeared **J. David Nash**, who, being by me first duly sworn, made the following statement:

1. The Business address of **Canaveral Construction Co., Inc.**, is **3475 North U.S. Highway 1, Mims, Florida 32754**.
2. My relationship to **Canaveral Construction Co., Inc.** is **President**.
3. I understand that "Boycott of Israel" has the same meaning as defined in Section 215.4725, Florida Statutes, and means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. A statement by a company that is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the State Board of Administration to be evidence that a company is participating in a boycott of Israel. The term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel.

4. I understand that "business operations" means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment or any other apparatus of business or commerce.
5. **Canaveral Construction Co., Inc.** is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a boycott of Israel.
6. **Canaveral Construction Co., Inc.** is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy List, created pursuant to Section 215.473, Florida Statutes.
7. **Canaveral Construction Co., Inc.** is not engaged in business operations in Cuba or Syria.

Signature

SWORN to and subscribed before me in the State and County first mentioned above on the

11 Day of October, 2019.

Notary Public (affix seal)

MARY BETH DOUD
Commission # GG 302369
Expires April 7, 2023
Bonded Thru Budget Notary Services

My Commission Expires:

Attachment "J" - Minority Employment Information

The Board of County Commissioners requires construction contractors, who would otherwise be required to file an Equal Employment Opportunity (EEO) Form 1 Report under Federal Law (currently Federal law requires filing for employers with more than 15 employees), to submit an EEO Form 1 Report with the submission of their GMP. This requirement extends to any subcontractors who are required to submit the EEO Form 1 Report (over 15 employees) under Federal law. Failure to submit an Acknowledgement and/or EEO Form 1 Report with your GMP will be reason to declare your proposal "non-responsive" to the proposal requirements. However, the information will be used for statistical purposes only and will not be used in any way as a basis to award a contract.

Please fill out and sign one of the following statements:

1. My Company or subcontractors are required to submit the EEO Form 1 Report and they are attached.

   Company Name:_____

   Signature:_____ Date:_____

2. My Company or subcontractors are not required to submit the EEO Form 1 Report.

   Company Name: Canaveral Const. Co. Inc.

   Signature: _____ Date: 10/4/19

Company Name: **Canaveral Construction Co., Inc.**

Company Address: **3475 North U.S. Highway 1, Mims, Florida 32754**

Company Telephone: 321.269.4011

Signature: _____ Printed: J. David Nash

Attachment "K" - Public Entity Crime Acknowledgment

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/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for Category Two (Fifteen Thousand Dollars) for a period of thirty six months from the date of being placed on the convicted vendor list.

Non-Collusion Affidavit of Prime Bidder

State of Florida

County of Brevard

J. David Nash, being duly sworn, deposes and says that:

1. Affiant is President of **Canaveral Construction Co., Inc.**, the Bidder that has submitted a bid/quote/proposal;

2. Affiant is fully informed respecting the preparation and contents of the bid/quote/proposal and of all pertinent circumstances respecting such bid/quote/proposal;

3. Such bid/quote/proposal is genuine and is not a collusive or sham bid/quote/proposal;

4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham bid/quote/proposal in connection with the Contract for which the bid/quote/proposal has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by Contract, or has in any manner, directly or indirectly, sought by the agreement or collusion of communication or conference with any other bidder, firm or person to fix the price or prices in the bid/quote/proposal or of any other Bidder, or to fix any overhead, profit or cost element of the bid/quote/proposal price or the bid/quote/proposal price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Board of County Commissioners of Brevard County, Florida, or any person interested in the contract; and

5. The price or prices negotiated for the bid/quote/proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties of interest, including affiant.

J. David Nash, President

SWORN to and subscribed before me in the State and County first mentioned above on the 11 Day of October, 2019.

Notary Public (affix seal)

MARY BETH DOUD
Commission # GG 302369
Expires April 7, 2023
Bonded Thru Budget Notary Services

My Commission Expires:
April 7, 2023

II.D.3

AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER

THIS AGREEMENT made the ____ day of _____ in the year Two Thousand Eighteen between the **BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 (hereinafter referred to as "Owner"), and **CANAVERAL CONSTRUCTION CO., INC.** (hereinafter referred to as "Construction Manager"), a company licensed to do business in the State of Florida.

ARTICLE 1

THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT

The Construction Manager accepts the relationship of trust and confidence established between him and the Owner by this Agreement. The Construction Manager covenants with the Owner to furnish the best skill and judgment and to cooperate with the Architect/Engineer in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and superintendence and use its best efforts to complete the Project in the best and soundest way, and in the most expeditious and economical manner consistent with the interest of the Owner.

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

The specific representatives of the Construction Team are shown in **Attachment "A"** attached.

1.2 Scope of Work – A general description of the Work/Project to be built/constructed/installed under this Agreement (**Attachment "B"**) and may include projects that may be funded or submitted for reimbursement through the Federal Emergency Management Agency ($1-$2,000,000).

1.3 Definitions:

Project - The Project is the total work to be performed under this Agreement. The Project consists of planning, design review, permitting, construction (which includes all labor, equipment, material and supervision) and code inspection necessary to build/construct and complete the Scope of Work identified in Attachment "B" (Scope of Work).

Owner - Brevard County Board of County Commissioners, Parks and Recreation Department, 2725 Judge Fran Jamieson Way, Building B, 2nd Floor, Viera, Florida 32940, (321) 633-2046; facsimile (321) 633-2198. For the purposes of this agreement, the Owner may also include the County Manager or the Project Director with regard to the performance of designated functions and duties specified for each under the terms and provisions of this agreement.

Contract Documents - Consist of this Agreement with attachments, Scope of Work, the drawings, the specifications, the GMP, any Conditions of the Contract between the Owner and the Construction Manager (General, Special, Supplementary and other conditions), permit conditions, if any, grant specifications, any addenda to the foregoing listed documents and all change orders, amendments or modifications as provided in Article 10, whether or not any of the foregoing listed documents have been attached hereto.

Permitting Authority - All applicable Federal, State, County and local agencies responsible for permitting and code inspections on projects administered by the Owner.

Construction Manager – Canaveral Construction Co., Inc., 3475 N. US Highway 1, Mims, FL 32754

Architect/Engineer – Morgan & Associates Consulting Engineers, Inc.

Project Director - The person designated by the Owner to provide direct interface with the Construction Manager with respect to the Owner's responsibilities. Mike Butcher is the designated Project Director, and is the designated Construction Coordinator.

Owner's Representatives - The Project Director and his/her supervisors and/or designees.

Estimate - The Construction Manager's latest estimate of probable Project construction cost.

Guaranteed Maximum Price (GMP) - The Guaranteed Maximum Price for the construction of the project, which shall be subject to adjustments only as provided herein. GMP includes Cost of the Work and Construction Manager's fee for Construction Phase services. The Guaranteed Maximum Price does include the cost for Owner direct purchases; however, all Owner direct purchases will be deducted in one deductive change order in accordance with **Attachment "C"** (Direct Purchasing Procedure) at the end of the project.

Substantial Completion - the point in the construction where all essential elements of the Project are sufficiently complete in conformance with the Contract, that the OWNER has both the occupancy of the Project, as evidenced by a Certificate of Occupancy issued by the governmental authority with jurisdiction and the beneficial use of the Project for its intended purpose where only minor punch list items are required for final completion. Substantial Completion shall not be deemed to have occurred where 1) latent defects are revealed subsequent to use and occupation of the project by the OWNER or 2) where the scope of substantial defects in workmanship or materials are not readily observable or discoverable when use and occupancy of the project commenced or 3) the failure to meet grant specifications, if any.

1.4 Extent of Agreement - This Agreement for Construction Management Services – to provide labor, materials, and equipment for dock replacement, between the Owner and the Construction Manager supersedes any prior negotiations, representations or agreements. The drawings, specifications and other descriptive documents defining the work to be included under this construction contract are identified in **Attachment "D"**.

The Construction Manager shall obtain from the Owner three (3) sets of signed, sealed and dated drawings, specifications and other documents upon which the GMP is based; shall acknowledge on the face of each document of each set that it is the set upon which he based his GMP; and shall send one (1) set of the documents to the Project Director along with his GMP proposal, while keeping one (1) set for himself and returning one (1) set to the Architect/Engineer.

This Agreement shall not be superseded by any provisions of the documents for construction and may be amended only by written instrument signed by both Owner and Construction Manager.

ARTICLE 2

CONSTRUCTION MANAGER'S RESPONSIBILITIES

Construction Manager shall perform all services described in this Article. The services to be provided under Paragraph 2.1 constitute the Pre-Construction Phase services. The services to be provided under Paragraph 2.2 thru 2.9 constitute the Construction Phase services. The parties acknowledge the Construction Phase shall commence before the Pre-Construction Phase is completed, and to a certain extent both phases shall proceed concurrently.

2.1 PRE-CONSTRUCTION PHASE

2.1.1 Preliminary Evaluation - Construction Manager shall provide a preliminary evaluation of Owner's program and Project budget requirements, each in terms of the other.

2.1.2 Consultation - Construction Manager will provide Design Disciplines Construction Documents Plans and Specifications review at all design milestones and a final constructability review. The review at each milestone will identify areas of omission, overlapping and identify documents to be modified in order to clarify the construction details. The review will also include the coordination and interface of the contract document's General Conditions, Special Conditions, trade contractor bid packages and site utilization planning during construction. Reviews shall be completed and comments provided within five (5) business days. As part of the design review, Construction Manager will provide Value Engineering and construction alternatives, identifying to the Owner and Architect options for systems and components that are cost effective, ease of maintainability and efficiency to be considered.

Construction Manager, with Architect, has scheduled and attended, and will continue to jointly schedule and attend, **weekly** progress meetings (*or as determined by the Project Director or Project Manager*) with Owner and Architect. Construction Manager has and will continue to consult with Owner and Architect regarding site use and improvements, and the selection of materials, building systems and equipment. Construction Manager has provided and will continue to provide recommendations on construction feasibility; actions designated to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets and possible economies.

2.1.3 Preliminary Project Schedule - Construction Manager has prepared a Preliminary Project Schedule, a copy of which is attached as **Attachment "E"**. Construction Manager shall coordinate and integrate the Preliminary Project Schedule with the services and activities of Owner, Architect and Construction Manager. The Construction Manager shall provide current scheduling information and provide direction and coordination regarding milestones, beginning and finishing dates, responsibilities for performance and the relationships of the Construction Manager's work to the work of his subcontractors and suppliers to enable them to perform their respective tasks so that the development of construction progresses in a smooth and efficient manner in conformance with the overall Total Project Schedule. The schedule shall include all phases of construction work, material supplies, long lead procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance of testing requirements. The Construction Manager shall advise the Owner, its representatives and the Architect/Engineer of their required participation in any meeting or inspection giving each at least one (1) week notice unless such notice is made impossible by conditions beyond the Construction Manager's control. The Construction Manager shall hold jobsite meetings at least once each week with the Construction Team and at least once each week with the subcontractors and the Architect/Engineer field representatives, and Owner or more frequently as required by work progress, to review progress, discuss problems and their solutions and coordinate future work with all subcontractors.

2.1.4 Subcontractors and Suppliers - Construction Manager shall continue to develop subcontractor interest in the Project and shall furnish to Owner and Architect for their information a list of possible subcontractors, including suppliers who are to furnish materials or equipment fabricated to a special design, from whom proposals will be requested for each principal portion of the Project. Owner will promptly reply in writing to Construction Manager if Owner has an objection to any such subcontractor or supplier. The receipt of such list shall not require Owner to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the rights of Owner to later object to or reject any proposed subcontractor or supplier.

2.1.5 Long Lead and Owner Direct Procurement - The Construction Manager shall review the design for the purpose of identifying long lead and Owner direct procurement items (machinery, equipment, materials and supplies). When each item is identified the Construction Manager shall notify the subcontractors, the Project Director, and the Owner of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected subcontracts. As soon as the Architect/Engineer has completed drawings and technical specifications and the Construction Manager has obtained permitting approval, the Construction Manager shall prepare Invitation for Bids. The Construction Manager shall keep informed of the progress of the respective subcontractors and/or suppliers, manufacturing or fabricating such items and notify the Project Director, Owner and Architect/Engineer of any problems or prospective delay in delivery.

2.1.6 Extent of Responsibility - The recommendations and advice of Construction Manager concerning design alternatives shall be subject to the review and approval of Owner and Owner's professional consultants. It is not Construction Manager's responsibility to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. However, if Construction Manager recognizes that portions of the Drawings and Specifications are at variance

therewith, Construction Manager shall promptly notify Owner and Architect in writing.

2.1.7 Equal Employment Opportunity and Affirmative Action - Construction Manager shall comply with applicable laws, regulations and special requirements of the Contract Documents regarding equal employment opportunity and affirmative action programs.

2.1.8 Separate Contracts Planning - The Construction Manager shall review the design with the Architect/Engineer and make recommendations to the Owner and to the Architect/Engineer with respect to dividing the work in such manner as will permit the Construction Manager to take bids and award separate construction subcontracts on the current schedule while the design is being completed. The Construction Manager shall take into consideration such factors as natural and practical lines of severability, sequencing, effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the Owner.

2.2 CONSTRUCTION PHASE

2.2.1 Interfacing -

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

(b) Subcontractor Interfacing - The Construction Manager shall be the single point of interface with all Subcontractors for the Owner, and all of its agents and representatives, including the Architect/Engineer. The Construction Manager shall negotiate all change orders, field orders and request for proposals, with all affected Subcontractors and shall review the costs of those proposals and advise the Owner and Architect/Engineer of their validity and reasonableness, acting in the Owner's best interest prior to requesting approval of each change order from the Owner. Before any work is begun on any change order, an executed Authorization to Initiate Work form from the Owner must be issued. However, when health and safety are threatened, the Construction Manager shall act immediately to remove the threat to health and safety. The Construction Manager shall also carefully review all shop drawings and then forward the same to the Architect/Engineer for review and actions. The Architect/Engineer will transmit them back to the Construction Manager who will then issue the shop drawings to the affected Subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote expeditious handling. The Construction Manager shall request the Architect/Engineer to make interpretations of the drawings or specifications requested of the Construction Manager by the Subcontractors and shall maintain a suspense control system to promote timely response. The Construction Manager shall advise the Project

Director and Architect/Engineer when timely response is not occurring on any of the above.

2.2.2 Solicitation of Bids

(1) Without assuming responsibilities of the Architect/Engineer, the Construction Manager shall prepare Invitations for Bids (or Request For Proposals, when applicable) for all procurements of long lead times, materials and services for Subcontractor contracts and for site utilities.

(2) As part of such preparation, the Construction Manager shall review the specifications and drawings prepared by the Architect/Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Construction Manager shall be brought to the attention of the Project Director and Architect/Engineer in written form.

(3) For each separate subcontractor or construction trade contract used in this project, the Construction Manager shall, unless waived by the Owner, conduct a pre-bid conference with prospective bidders, the Architect/Engineer and Project Director. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the Architect/Engineer and upon receiving clarification or correction in writing shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.

(4) In accordance with Article 2.4.2 the Construction Manager shall open and review all bids and enter into contract(s) with those low bidders determined to be most qualified by the Construction Manager. The Construction Manager shall make every effort to follow the County's Pre-Qualification Ordinance 98-37 (**Attachment "F"**) for applicable subcontract trades.

2.2.3 Bonds - For those projects where the cost will exceed $100,000.00, in accordance with the provisions of Section 255.05, Florida Statutes, the Construction Manager shall provide to the Owner, on forms furnished by the Owner (**Attachment "G" and "H"**), certified copies of the recorded 100% Public Construction Performance Bond and 100% Public Construction Payment Bond each in an amount not less than the total construction cost (GMP) as defined in Article 9 and inclusive of the construction fee. *Payment and Performance Bonds shall be recorded (by the Construction Manager) in the official record of the County in which the project is located.* The Contractor must provide a copy of the bond(s) to all subcontractors and notify them of deadlines to make claims under the bonds.

2.2.4 Quality Control - The Construction Manager shall develop and maintain a program, acceptable to the Owner and Architect/Engineer, to assure quality control of the construction (*this may include personnel if approved by the Owner*). The Construction Manager shall have a qualified and competent Superintendent to supervise the work of all Subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and shall continue to exert influence

and control over each Subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the work. Should disagreement occur between the Construction Manager and Architect/Engineer over acceptability of work and conformance with the requirements of the specifications and plans, the Owner shall be the final judge of performance and acceptability.

2.3 Guaranteed Maximum Price (GMP) and Contract Time

2.3.1 Construction Manager acknowledges and agrees the Drawings and Specifications are sufficiently complete for Construction Manager to propose a Guaranteed Maximum Price (GMP), which is the total not to exceed sum of the Construction Manager's Fee and the Cost of the Project. Accordingly, the Guaranteed Maximum Price (GMP) is hereby established at **$462,708.00**. *The final approved GMP spread sheet is hereby attached as* **Attachment "I"** *to and shall become a part of this Agreement between Owner and Construction Manager.*

2.3.2 The Cost of the Work shall include Construction Manager's contingency, a sum agreed to by all parties for the Manager's use to cover costs arising from unforeseen conditions in the project. Construction Manager's contingency is hereby established as a separate line item of **$50,000.00** within the Guaranteed Maximum Price.

2.3.3 Basis of Guaranteed Maximum Price (GMP)
The Guaranteed Maximum Price, herein established is based upon the following:

.1 The list of the Drawings and Specifications, including all addenda thereto, and the Conditions of the Contract, which are identified in the Attachments to this Agreement.

.2 The list of clarifications and assumptions made by Construction Manager in the preparation of its Guaranteed Maximum Price proposal to supplement the information contained in the Drawings and Specifications.

.3 The Preliminary Construction Schedule (**Attachment "E"**). As reflected in said Schedule, Construction Manager is to achieve Substantial Completion of the Work within **one hundred twenty (120) calendar days** from issuance of Notice to Proceed. Final Completion shall be achieved within an additional **thirty (30) calendar days**.

2.3.4 Included within the Guaranteed Maximum Price is the Construction Manager's fee. The Construction Manager's Fee is hereby established as **$56,910.00** for services provided in this Agreement. The sum of the Cost of the Project and the Construction Manager's Fee shall not exceed the Guaranteed Maximum Price. The Construction Manager's Fee shall constitute Construction Manager's total compensation for profit. All costs in excess of the final approved GMP (as reduced by Owner direct purchases, if any, in accordance with **Attachment "C"**) are the responsibility of the Construction Manager. Any savings between the GMP (as reduced by Owner direct purchases) and the sum of the actual cost of the Project plus the Construction Manager's fee will be returned to the Owner.

2.3.5 Prior to issuance of the Construction Phase Notice to Proceed, Construction Manager shall not incur any costs to be reimbursed as part of the Cost of the Project, except as

Owner may specifically authorize in writing.

2.3.6 The Guaranteed Maximum Price and date of Substantial Completion shall be subject to additions and deductions by a Change Order as provided in the Contract Documents.

2.3.7 The Guaranteed Maximum Price shall include in the Cost of the Project only those taxes which are enacted and in effect at the time the GMP was determined.

2.4 Construction Phase

2.4.1 General

2.4.1.1 The Construction Phase shall commence on the date identified in the Notice to Proceed to be issued by the Owner.

2.4.1.2 The Construction Manager shall cause all Work required by the Contract Documents to be properly completed in accordance with the terms of the Contract Documents and within the Contract Time.

2.4.1.3 Construction Manager's Staff - The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Construction Manager and to coordinate, inspect and provide general direction of the work and progress of the subcontractors, and the Construction Manager shall provide no less than those personnel during the respective phases of construction. The Construction Manager shall not change any of those designated persons unless mutually agreed to by the Owner and Construction Manager. In such case, the Owner shall have the right of approval of the qualifications of replacement personnel. Such approval will not be reasonably withheld.

2.4.1.3.1 The Construction Manager shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the work. The superintendent shall represent the Construction Manager and all communications given to the superintendent shall be as binding as if given to the Construction Manager.

2.4.1.3.2 The superintendent shall be in attendance at the Project site not less than eight (8) hours per day, five (5) days per week, and any time work is being performed at the jobsite, unless the job is closed down due to a general strike or conditions beyond the control of the Construction Manager or until completion or termination of the Contract. It is understood that such superintendent shall be acceptable to the Owner and the Architect and shall be the one who will be continued in that capacity for the duration of the project, unless the Owner otherwise agrees. The superintendent shall not be employed on any other project for or by Construction Manager or any other entity during the course of the work.

2.4.1.4 Lines of Authority - The Construction Manager shall establish and maintain lines of authority for its personnel, and shall provide this description/definition to the Owner and all other affected parties such as the code inspectors of the permitting authorities, the subcontractors, the Architect/Engineer and the Owner's

representatives, to provide general direction of the work and progress of the various phases and subcontractors. The Owner and the Architect/Engineer may attend meetings between the Construction Manager and subcontractors, however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontractor.

2.4.2 Administration

2.4.2.1 Those portions of the Project that Construction Manager does not customarily perform with Construction Manager's own personnel shall be performed under subcontracts or by other appropriate written agreements with Construction Manager. Construction Manager shall obtain bids from subcontractors and from suppliers of materials or equipment fabricated to a special design for the Project from the list previously reviewed and, after analyzing such bids, shall deliver such bids to the Owner and Architect for review and comment. Based upon that review and comment, Construction Manager shall then determine, subject to the reasonable objection of Architect or Owner, which bids will be accepted. Construction Manager shall not be required to contract with anyone to whom Construction Manager has reasonable objection. Notwithstanding anything herein to the contrary, Construction Manager covenants and agrees that it shall competitively bid all subcontracts. Further, with respect to all such subcontracts, Construction Manager covenants and agrees that it shall select and contract with the lowest, responsive and qualified bidder, unless otherwise consented to in writing by Owner.

2.4.2.2 Subcontracts and agreements with suppliers furnishing materials or equipment fabricated to a special design shall conform with payment provisions and shall not be awarded on the basis of cost plus a fee without prior written consent of Owner.

2.4.2.3 Construction Manager shall schedule and conduct weekly meetings at which Owner, Architect, Construction Manager and appropriate Subcontractors can discuss the status of the Project. Construction Manager shall prepare and promptly distribute meeting minutes within two (2) business days after any such meeting is held.

2.4.2.4 Promptly after Owner's issuance of the Notice to Proceed, Construction Manager shall prepare a more detailed Project Schedule, based upon the preliminary Project Construction Schedule attached as **Attachment "E"**, including Owner's occupancy requirements. Construction Manager will submit monthly updates to the Schedule until the project is completed.

2.4.2.5 Construction Manager shall provide Monthly Written Reports to Owner on the progress of the entire Work. Construction Manager shall maintain a daily log containing a record of weather, subcontractors working on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as Owner may require. The log shall be available to Owner at all times.

2.5 Professional Services - Construction Manager shall not be required to provide professional services which constitute the practice of architecture or engineering, unless

such services are specifically required by the Contract Documents for a portion of the Project, or unless Construction Manager has specifically agreed in writing to provide such services. In such event, Construction Manager shall cause such services to be performed by appropriately licensed professionals.

2.6 Unsafe Materials - If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered but not created or brought on the site Construction Manager shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to Owner and Architect in writing. Owner shall be responsible for obtaining the services of a licensed laboratory to verify the presence or absence of the material or substance reported by Construction Manager and, in the event such material or substance is found to be present, to verify that it has been rendered harmless.

In accordance with Florida Statute 255.40, the Owner will require that the Contractor certify (at project completion) that to the best of his/her knowledge and ability no asbestos-containing materials and/or supplies have been purchased and/or installed on this Project.

> (*Florida Statute 255.40 Use of asbestos in new public buildings or buildings newly constructed for lease to governmental agencies; prohibition - The use of asbestos or asbestos-based fiber materials is prohibited in any building, construction of which is commenced after September 30, 1983, which is financed with public funds or is constructed for the express purpose of being leased to any governmental entity.*)

2.7 Weather Protection - The Construction Manager will be responsible to ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. All costs associated with this shall be the responsibility of the Construction Manager.

2.8 Job Site Requirements

(1) The Construction Manager shall provide for each of the following activities as a part of the Construction Manager's Construction Phase services:

a. Maintain a log of daily activities, including manpower records, weather, delays, major decisions, etc. and require the same of subcontractors
b. Maintain a directory of companies on the Project with names, addresses, telephone numbers, emergency telephone numbers and fax numbers of key personnel.
c. Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.
d. Provide labor relations management for a harmonious, productive Project.
e. Provide a safety program for the Project to meet OSHA requirements. Monitor for Subcontractor compliance without relieving them of responsibilities to perform work in accordance with the best acceptable practice.
f. Provide a quality control program.

g. Miscellaneous office supplies that support the construction efforts which are consumed by his own forces.

2.9 Job Site Administration - The Construction Manager shall provide as part of the Construction Manager's Construction Phase services, administrative functions during construction, including but not limited to, the following:

(1) Job Meetings - Hold weekly progress and coordination meetings to provide for an easy flowing Project. Implement procedures and assure timely submittals, expedite processing approvals and return of shop drawings, samples, etc. Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing, labor allocations, etc. Review and coordinate each Subcontractor's work. Review and implement revisions to the Schedule. Monitor and promote safety requirements.

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

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

(2) Shop Drawing Submittals/Approvals - Check Shop Drawings and implement procedures for submittal and transmittal to the Architect/Engineer of such drawings for action, and closely monitor their submittal and approval process. Provide copy of all correspondence to Owner. Construction Manager will provide one (1) approved Submittal or Shop Drawing to Owner.

(3) Material and Equipment Expediting - Closely monitor material and equipment deliveries; implement inspection and follow-up procedures on commitments of all Suppliers and Subcontractors.

(4) Payments to Subcontractor - Develop and implement a procedure for review, processing, and payment of applications by Subcontractors for progress and final payments.

(5) Document Interpretation - Refer all questions for interpretation of the documents prepared by the Architect/Engineer to the Architect/Engineer.

(6) Reports and Project Site Documents - Record the progress of the Project. Submit written progress reports to the Owner and the Architect/Engineer including information on the Subcontractor's work, and the percentage of completion. Keep a daily log available to the Owner, the Architect/Engineer and the Permitting Authority inspectors.

(7) Substantial Completion - The Construction Manager shall secure the Certificate of Occupancy and notify the Owner and Architect/Engineer, in writing, that the

Project will be ready for inspection to determine if it is substantially complete and ready for inspection on or after a specific date, which date shall be stated in the notice. The notice shall be given at least seven (7) calendar days in advance of said date. Inspection and testing shall take place at time(s) mutually agreeable to the Construction Manager, Architect/Engineer and Owner. The inspection will be conducted jointly between the Architect/Engineer, Owner and Construction Manager's representative. The inspection shall determine if substantial completion has been accomplished and the Architect/Engineer shall produce a Certificate of Substantial Completion (**Attachment "J"**) and a written list of unfinished Work and defective work, commonly referred to as a "Punch List", which must be finished and corrected to obtain final completion.

At the Owner's option a specific area or segment of the project may be inspected and/or determined substantially complete.

(8) Final Completion - The Construction Manager shall notify the Architect/Engineer and Owner, in writing, that the Project will be ready for final inspection on or after a specific date, which date shall be stated in the notice. This notice shall be given at least seven (7) calendar days in advance. That inspection and any necessary testing shall be conducted in the same manner as the inspection for Substantial Completion. When the Project is finally and totally complete, including the elimination of all defects, a Certificate of Final Completion (**Attachment "K"**) will be issued by the Architect/Engineer and the Project shall be submitted to the Owner for final acceptance.

The Owner and Architect/Engineer shall conduct the inspections. The Owner may elect to have other persons of its choosing also participate in the inspections. If one or more re-inspections are required, the Construction Manager shall reimburse the Owner for all costs of re-inspection or, at the Owner's option, the costs may be deducted from payments due to the Construction Manager. The Total Project Schedule shall include these notices and inspections as activities.

The Construction Manager shall secure and transmit to the Architect/Engineer all required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings, and maintenance books as part of final completion (in triplicate) unless stated otherwise in the Project specifications.

(9) Start-Up - With the Owner's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the subcontractors.

(10) Record Drawings - The Construction Manager shall monitor the progress of Work on marked-up field prints which, at Substantial Completion, shall be submitted to the Architect/Engineer who will prepare the final record drawings.

(11) Administrative Records - The Construction Manager will maintain at the job site on a current basis, files and records such as, but not limited to the following:

Contracts and Purchase Orders
Shop Drawing Submittal/Approval Logs
Equipment Purchase/Delivery Logs
Contract Drawings and Specifications with Addenda
Cost Proposal Requests
Meeting Minutes
Lab Test Reports
Contract Changes
Material Purchase Delivery Logs
"As-Built" Marked Prints
Monthly Progress Reports
Correspondence Files
Transmittal Records
Inspection Reports
Punch Lists

The Project records shall be available at all times to the Owner and Architect/Engineer for reference or review.

(12) Owner Occupancy:
The Construction Manager shall provide services during the Construction Phase which will provide a smooth and successful Owner occupancy of the Project. The Construction Manager shall provide consultation and project management to facilitate Owner occupancy and provide transitional services to get the work, as completed by the contractors "on line" in such conditions as will satisfy Owner operational requirements.

The Construction Manager shall conduct the Construction Manager's preliminary punch list inspection and coordinate the completion of all punch list work to be done with Owner occupancy requirements in mind.

The Construction Manager shall catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey these to the Owner in such a manner as to promote their usability (in triplicate). The Construction Manager shall provide operational training, in equipment use, for building operators to a maximum of eight (8) hours.

The Construction Manager shall secure required guarantees and warranties, assembled and organized (in a binder) and deliver same, in triplicate, to the Owner in a manner that will facilitate their maximum enforcement and assure their meaningful implementation.

The Construction Manager shall continuously review "As-Built" Drawings and mark-up progress prints to provide as much accuracy as possible.

(13) Warranty - Where any work is performed by the Construction Manager's own forces or by Subcontractors under contract with the Construction Manager, the Construction Manager shall warrant that all materials and equipment included in such Work will be new except where indicated otherwise in Contract Documents, and that such Work will be of good quality, free from improper workmanship and

defective materials and in conformance with the Drawings and Specifications. With respect to the same Work, the Construction Manager further agrees to correct all work found by the Owner to be defective in material and workmanship or not in conformance with the Drawings and Specifications for a period of one (1) year from the Date of Final Completion or as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Construction Manager shall collect and deliver to the Owner any specific written warranties given by others as required by the Contract Documents. **Also, the Construction Manager shall conduct, jointly with the Owner and the Architect/Engineer, a warranty inspection nine (9) months after the date of Owner Occupancy. This warranty inspection will be scheduled by a representative of the Owner.**

ARTICLE 3

OWNER'S RESPONSIBILITIES

3.1 Owner's Information - The Owner shall provide full information regarding Owner's requirements for the Project.

3.2 Owner's Representative/Project Director - The Owner shall designate a representative who shall be fully acquainted with the Project and shall define the lines of Owner authority to approve Project Construction Budgets, and changes in Project. The Owner's representative shall render decisions promptly and furnish information expeditiously.

3.3 Architect and Engineer's Agreement - The Owner shall retain an Architect/Engineer for design and to prepare construction documents for the Project. The Architect/Engineer's services, duties and responsibilities are described in the Agreement between the Owner and the Architect/Engineer, a copy of which will be furnished to the Construction Manager upon request.

3.4 Approvals and Easements - The Owner shall pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.5 Legal Services - The Owner shall furnish such legal services as may be necessary for providing the items set forth in Article 3 and such auditing services as the Owner may require.

3.6 Drawings and Specifications - The Owner will provide to the Construction Manager a reproducible set of all drawings and specifications reasonably necessary and ready for printing.

3.7 Cost of Surveys & Reports - The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the Owner's expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof.

3.8 Project Fault or Defects - If the Owner becomes aware of any fault or defect in the Project or non-conformance with the drawings and specifications, the Owner shall give

prompt written notice thereof to the Construction Manager and Architect/Engineer.

3.9 Funding - The Owner shall furnish, in accordance with the established schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project.

3.10 Lines of Communication - The Owner and Architect/Engineer shall communicate with the Subcontractors or Suppliers only through the Construction Manager while such method of communication is effective in maintaining Project schedules and quality.

3.11 Lines of Authority - The Owner shall establish and maintain lines of authority for Owner's personnel and shall provide this definition to the Construction Manager and all other affected parties.

3.12 Permitting & Code Inspections - The Owner recognizes and coordinates with the Permitting Authority and expects the Construction Manager to do the same.

ARTICLE 4

PERMITTING AND INSPECTION

4.1 Permits, Fees and Notices - Unless otherwise provided in the Contract Documents, the Construction Manager shall secure and the Owner shall pay for any Brevard County building permit or other County permits and governmental fees and licenses necessary for proper execution of the Contract and which are legally required. Any other entity/jurisdiction permits (i.e.: City of Titusville, City of Melbourne, etc.) shall be included in the Guaranteed Maximum Price and secured and paid for by the Construction Manager. County Impact and Solid Waste fees will also be paid by the Owner. Copies of all permits shall be submitted to the Owner.

4.2 The Construction Manager shall comply with and give notices required by laws, ordinances, rules and regulations and lawful orders of public authorities bearing on performance of the work required for the Project.

4.3 It is not the Construction Manager's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Construction Manager observes that portions of the Contract Documents are at variance therewith, and such variance was not discoverable during the Construction Manager's review of these documents for the purpose of determining the GMP, the Construction Manager shall promptly notify the Architect and Owner, in writing, and necessary changes shall be accomplished by appropriate modification.

4.4 If the Construction Manager performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Construction Manager shall assume full responsibility for such Work and shall bear the attributable costs.

ARTICLE 5

SUBCONTRACTS

5.1 Definition - A Subcontractor is a person or organization who has a direct contract with the Construction Manager to perform any of the work. Nothing contained in the Contract Document shall create any contractual relation between the Owner or Architect/Engineer and any Subcontractor.

5.2 Bids/Proposals - The Construction Manager shall request and make every attempt to receive, at a minimum, three (3) bids/proposals from Subcontractors and Suppliers and will award those contracts to the most qualified and responsive low bidder after the Construction Manager and Owner have reviewed each bid/proposal and agree that the Subcontractor is qualified to perform the work.

5.3 Required Subcontractor and Subcontract Conditions.

5.3.1 Subcontractual Relations - By an appropriate written agreement, the Construction Manager shall require each Subcontractor to the extent of the work to be performed by the Subcontractor, to be bound to the Construction Manager by the terms of the Contract Documents, and to assume toward the Construction Manager all the obligations and responsibilities which the Construction Manager by this Agreement, assumes toward the Owner and the Architect/Engineer. Said agreements shall preserve and protect the rights of the Owner and Architect/Engineer under the Contract Documents with respect to the work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each Subcontractor to enter into similar agreements with his Subcontractor's Subcontractor.

The Construction Manager shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Article 5.3 and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to his Sub-subcontractor.

(1) Subcontractors must submit a complete pre-qualification form demonstrating their work experience, financial condition, and adherence to schedule. The Subcontractors financial condition must demonstrate that adequate fixed and liquid assets and equipment are available to properly perform the subcontract.

(2) Workforce - The Subcontractor must agree to perform no less than fifty 50%) percent of the Project construction work utilizing its own forces.

(3) All subcontracts shall provide:

a. LIMITATION OF REMEDY - NO DAMAGES FOR DELAY
That the Subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Architect/Engineer or attributable to the Owner or

Architect/Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time.

In the event of a change in the work the Subcontractor's claim for adjustments in the contract sum are limited exclusively to its actual cost for such change, plus, no more than five percent (5%) for profit, and five percent (5%) for overhead.

a. The subcontract shall require the Subcontractor expressly agree that the foregoing constitute its sole and exclusive remedies for delays and changes in the work and thus eliminate any other remedies for claim for increase in the contract price, damages, loss or additional compensation.

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

5.4 Responsibilities for Acts and Omissions - The Construction Manager shall be responsible to the Owner for the acts and omissions of its employees and agents and its Subcontractors, agents and employees, and all other persons performing any of the work or supplying materials under this contract to the Construction Manager.

ARTICLE 6

SCHEDULE, TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

6.1 At the time a Guaranteed Maximum Price (GMP) is established, as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date and an Owner Occupancy Date for completion of the Project in accordance with the master Project schedule, shall also be established by the Construction Team. The Construction Manager agrees to complete the construction in accordance with the agreed upon Substantial Completion Date, Final Completion Date and Owner Occupancy Date. The Construction Manager acknowledges that failure to complete the Project within the construction time set forth in the approved schedule will result in substantial damages to the Owner.

It is specifically agreed by and between the parties that the Owner may deduct a sum in the amount scheduled below from the amount of compensation to be paid the Construction Manager, Sundays and Holidays included, that the Project remains uncompleted. This amount as scheduled and agreed upon as a proper measure of liquidated damages, which the Owner will sustain per day by failure of the Construction Manager to complete the Project by the time stipulated in this Agreement, is not to be construed in any sense as a penalty provision.

Project Substantial Completion	$500 per day
Project Final Completion	$250 per day

Liquidated Damages will be assessed for each day beyond the contracted project Substantial Completion date, until actual project Substantial Completion is achieved. From the date of Substantial Completion, the Construction Manager shall be granted thirty (30) days for completion of punch list items, associated inspections and approvals,

and submission and approval of required closeout documentation, at which time Final Completion shall be obtained. Final Completion liquidated damages will be assessed for each day beyond the thirty (30) days period from actual Substantial Completion.

6.2 The date of Owner Occupancy shall occur as described in Article 2.9(7) and Article 1.3, hereinabove. Warranties called for by this Agreement or by the Drawings and Specifications shall commence on the Date of Final Completion of the Project unless specified otherwise in the Project Specifications.

ARTICLE 7

GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION

7.1 The Construction Manager will establish and submit in writing a Guaranteed Maximum Price to the Owner for its approval, guaranteeing the maximum price to the Owner, for the construction cost of the Project or designated part thereof, based on a review of the contract drawings and specifications. Such Guaranteed Maximum Price will be subject to increase or deduction for changes in the Project as provided in Article 10 and for Owner direct purchases, if any, in accordance with **Attachment "C"**. All costs in excess of the final approved GMP, as adjusted up or down in accordance with the terms of this agreement, are the responsibility of the Construction Manager. Any savings between the GMP, as adjusted, and the sum of the actual cost of the Project plus the Construction Manager's fees, will be returned to the Owner. The GMP includes all taxes in the Cost of the Project which were legally enacted and in effect at the time the GMP was established.

7.2 Owner-Direct Purchases - In the event the Owner opts to make Owner Direct Purchases, as outlined in **Attachment "C"**, the Guaranteed Maximum Price shall be reduced by the cost of the materials plus applicable sales tax so that all sales tax savings accrue to the benefit of the project contingency. The Construction Manager shall diligently process all Owner Direct Purchase invoices for the project in order for the Owner to benefit from applicable vendor discounts. The Construction Manager will be required to submit all invoices to Owner in sufficient amount of time in order for the project to benefit from the vendor discount. All costs associated with missed discounts by the Construction Manager will be deducted from the Construction Manager's contract via deductive change order at project completion. Owner reserves the right to waive the Construction Manager's responsibility for missing discounts.

7.3 At the time of execution of the contract, the Construction Manager will verify the time schedule for activities and work which is adopted by the Construction Team and used to determine the Construction Manager's cost of work. Surplus funds from bids received below the applicable line items, including line items within the General Conditions, in the GMP will be set aside for contingency. Construction contingency funds will be used for the purpose of defraying the expenses due to unforeseen circumstances relating to construction. The Construction Manager will be required to furnish documentation evidencing expenditures charged to this contingency prior to the release of funds by the Owner. Documentation for use of the Contingency shall be determined by the Construction Team. The Architect/Owner shall verify and approve the actual costs.

If bids are received above the applicable line item in the GMP the deficiency will be taken from the contingency via an approved Authorization to Initiate Work/GMP Realignment form; however, such events shall not be cause to increase the GMP. If bids are not received for a portion of the work at or below the applicable line item amount in the GMP, the Construction Manager reserves the right to perform that portion of the work or negotiate for its performance for the specified line item lump sum amount or less.

ARTICLE 8

CONSTRUCTION MANAGER'S FEE

8.1 In consideration of the performance of the contract, the Owner agrees to pay the Construction Manager as compensation for his services fees as set forth in Subparagraphs 8.1.2 and 8.1.3. subject to the retainage specified in 8.1.1 below.

8.1.1 Construction Phase Fee - Prior to commencement of the Construction Phase, the Owner will direct the Construction Manager in writing to proceed into the Construction Phase. The Owner retains the right to review the need and effectiveness of any employee or employees assigned by the Construction Manager, should the Project Director question the need for the employee or employees. A percentage of the agreed upon Construction Phase Fee shall be paid monthly based on percentage (%) of work completed, less retainage, in accordance with subsection 12.1 below. The Construction Manager's first monthly Certificate for Payment shall be submitted no earlier than thirty (30) days following the issuance of the Notice to Proceed, and the final monthly payment shall be paid only when construction of the Project is finally completed, all original, final release of liens are received, closeout documentation has been submitted and occupancy of the Project accepted by the Owner. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the Owner.

(1) Adjustments in Fee - For changes in the Project as provided in Article 10, the Construction Phase fee shall be adjusted as follows:

(a) The Construction Manager shall be paid an additional fee subject to negotiation if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss excluding any condition that may have been caused from negligent acts by the Construction Manager, subcontractors or others for whose acts the Construction Manager is responsible.

(2) Costs and Expenses Included in Construction Manager's Construction Phase Fee - The following are included in the Construction Manager's fee for services during the Construction Phase and are included in the GMP (See **Attachment "L"** for Allowable Costs, Overhead associated with the Construction Manager's Construction Phase Fee referenced in Article 8):

(a) Corporate costs including expenses and overhead and profit related to this project by the Construction Manager's principal and branch offices.

(b) Costs of all data processing, accounting, purchasing and associated staff which is performed at the home office.

(c) General operating expenses incurred in the management and supervision of the project, except as expressly included in Article 9.
(d) Salaries or other compensation of the Construction Manager's employees at his principal and branch offices.
(e) Those services set forth in Paragraph 2.1, 2.2, 2.3 and 2.4; except as expressly included in Article 9.
(f) Relocation expenses for Construction Manager's personnel.
(g) Costs of all project estimating, safety, scheduling and accounting staff.

8.1.3 The Construction Manager will establish and submit in writing to the Owner for his approval a Guaranteed Maximum Price, guaranteeing the maximum price to the Owner, for the construction cost of the Project or designated part thereof, based on a review of the contract drawings and specifications. Such Guaranteed Maximum Price will be subject to modification for changes in the Project as provide in Article 10. However, the actual price paid for the Work by the Owner shall be (1) the Cost of the Project as defined in Article 9, plus the Construction Manager's fees, or (2) the GMP, whichever is less, when the Work is complete. All costs in excess of the final approved GMP are the responsibility of the Construction Manager.

ARTICLE 9

COST OF THE PROJECT

9.1 Definition - The term Cost of the Project shall mean costs reasonably and necessarily incurred in the Project during the Construction Phase for construction services and paid by the Construction Manager which are included in the Construction Phase Fee, less Owner direct purchases made in accordance with **Attachment "C"** upon completion of the Project. Such costs shall include the items set forth below in this Article, and shall also include, but are not limited to, those set forth in **Attachment "M"** - "Allowable General Conditions".

The Owner agrees to pay the Construction Manager for the Cost of the Project subject to the limits set forth in Articles 9.2 and 9.3 plus the Construction Manager's fees stipulated in Article 8, provided the total does not to exceed the GMP.

9.2 Direct Cost Items (See **Attachment "M"** - "Allowable General Conditions")

(1) Labor wages paid for the on-site Project Superintendent directly responsible for the operation and supervision of the project, clerical and Quality Control personnel (as opposed to wages paid to management or supervisory personnel who are not part of the on-site project management) in the direct employ of the Construction Manager in the performance of the Construction Manager's work under this Agreement, acceptable salary or wage schedules and such fringe benefits, if any, as may be payable with respect thereto (labor burden not to exceed 40% for payroll and 15% for per diem).

(2) Payments due to Subcontractors from the Construction Manager or made by the Construction Manager to Subcontractors for their work performed pursuant to contract under this Agreement.

(3) Cost of the premiums for insurance above and beyond the minimum required by Brevard County ($1 million) and cost of premiums for bonds which the Construction Manager is required to procure by this Agreement specifically for the construction of this project.

(4) Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by a governmental authority, and for which the Construction Manager is liable. No costs shall be paid by the Owner to the Construction Manager for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the Plans and Specifications or to correct any deficiency or damage caused by negligent acts by the Construction Manager.

(5) If approved by the Owner, the Construction Manager, when qualified, may self-perform all or a portion of the work for any item listed on the estimate or GMP breakdown where it is deemed advantageous due to schedule or economic benefit for the direct cost of the work.

(6) Legal costs reasonably and properly resulting from prosecution of the Project for the Owner, including handling claims for changes by subcontractors and vendors, subject to the following limitations:

(a) The Owner approved incurring such costs in advance, which approval shall not be unreasonably denied; and
(b) The legal costs were not incurred as result of the Construction Manager's own negligence or default.

(7) Costs for such temporary facilities during construction, as approved by the Owner, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software.

9.3 Allowances

Within the GMP, there may be specific items which the Construction Manager and Owner have agreed to include as allowances in the estimates until such time as the cost and schedule impact of these items can be more specifically ascertained. At the time that the Costs of the Work of allowance items becomes known (either through a subcontract price or by virtue of either (A) scope of work and cost agreed to by Construction Manager and Owner or (B) an actual buyout of the item), the GMP and Scheduled Completion Date will be adjusted (either increased or decreased) by the actual Costs of the Work and schedule impact of the item. With respect to increases and decreases to the amount of an allowance item, Construction Manager shall be entitled to the Construction Manager's fee, subject to the limits set forth in Article 8, on the adjusted amount of such allowance, and the GMP shall be adjusted by reason thereof, by Change Order. Allowances must be agreed to by both parties. Allowances included within the GMP constitute approval of said allowances at the time the Guaranteed Maximum Price is approved.

9.4 Public Records Law and Audit Requirements

In the performance of this Contract, the Construction Manager shall keep books, records and accounts of all activities related to the Contract in compliance with generally accepted accounting procedures and in compliance with the Public Records Laws of the State of Florida (Including, but not limited to Chapter 119, Florida Statutes).

All records or documents created by Construction Manager or provided to Construction Manager by the County in connection with the activities or services provided by Construction Manager under the terms of this agreement, are public records and Construction Manager agrees to comply with any request for such public records or documents made in accordance with section 119.07 Florida Statutes.

Records, documents, books and accounts ordinarily and necessarily required for the performance of this Contract shall be kept, maintained and open to inspection by the Owner, Owner's representative, and members of the public during regular business hours.

The Construction Manager shall provide the public with access to public records on the same terms and conditions that the public agency provides the records and at a cost that does not exceed the cost provided for in Florida Statute Chapter 119 or as otherwise provided by law (see also County Administrative Order, AO-47).

The Construction Manager shall also ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this Contract shall be subject to copyright by Construction Manager in the United States or any other country.

The Construction Manager shall meet all requirements for retaining public records and shall transfer, at no cost, to the Owner/County all public records in possession of the Construction Manager upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Owner/County in a format that is compatible with the information technology systems of the Owner/County.

Failure to comply with the provisions of this Section 9.4, shall result in the Owner taking enforcement action against the Construction Manager including the cost to the Owner for gaining the Construction Manager's compliance which will include, but are not limited to, the gross hourly rate of the Owner's employee(s) contacts to the Construction Manager to obtain compliance with this section, litigation filing fees and attorney's fees.

ARTICLE 10

CHANGES IN THE PROJECT

10.1 Change Orders - The Owner, without invalidating this Agreement, may order Changes in the Project within the general scope of this Agreement consisting of additions, deletions or other revisions which may cause an increase or decrease in the GMP, and/or the Construction Completion Date. All changes in the Project GMP or Construction Completion Date not covered by an authorized contingency, as described in Article 7.3 must be authorized by a written Change Order or Construction Change Directive, and signed by the Owner, Architect and Construction Manager before the change is implemented. It shall be the Owner's discretion as to whether each change order requires the A/E signature. **Maximum allowable mark-up on any change order is 5% Profit, 5% Overhead, and a 2% Bond.**

10.1.1 A Construction Change Directive is a change directive signed by the Project Director and the County Manager directing an addition, deletion, or revision in the scope of work and/or schedule. The Construction Change Directive is necessary when no Agreement exists among the Architect/Engineer of record, Brevard County and the Construction Manager on the dollar amount of a necessary change in the scope of work and/or an extension of time to the construction contract. The Construction Change Directive is used (1) when an unsafe, hazardous or other similar condition exists, (2) when failure to achieve prompt resolution of the change will result in a demobilization of the Construction Manager, its subcontractors and/or agents, (3) when failure to achieve prompt resolution will result in additional cost, and/or a significant delay in completing the project. A Construction Change Directive does not change the contract price or the contract time, but is evidence that the parties expect that the change will be incorporated in a subsequently issued Change Order or be covered by an authorized contingency.

10.1.2 A Change Order is a written order to the Construction Manager signed by the Owner, Architect, and Construction Manager, issued after the execution of this Agreement, authorizing a change in the Project and/or an adjustment in the construction authorization, the Construction Manager's fee, or the Construction Completion date. Each adjustment in the GMP resulting from a change order shall be documented clearly to separate the amount attributable to the cost of the change in the Project from the original cost of the Project.

10.1.3 The increase or decrease in the Guaranteed Maximum Price resulting from Change Orders in the Project shall be determined by one of the following ways:

(1) by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect/Engineer and Owner;
(2) by unit prices stated in the Agreement or subsequently agreed upon;
(3) by cost as defined in Article 9 plus a mutually acceptable fixed or percentage fee; or
(4) by the method provided in Subparagraph 10.1.4.

10.1.4 If none of the methods set forth in Clause 10.1.3 is agreed upon, the Construction Manager, provided he receives a written order signed by the Owner, shall promptly proceed with the work required by the Construction Change Directive involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. However, in the event a Change Order is issued under these conditions, the Architect/Engineer will establish an estimated cost of the work and the Construction Manager shall not perform any work whose cost exceeds that estimate without prior written approval by the Owner. In such case, and also under Article 10.1.3 above, the Construction Manager shall keep and present, in such forms as the Owner may prescribe, an itemized accounting together with appropriate supporting data of the increase in the Cost of the Project as outlined in Article 9. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Construction Manager to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease in the Cost of the Project and the Construction Manager's fee subject to the limits set forth in Article 7.

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

10.1.6 Should the Construction Manager or his contracted subcontractors encounter:

(1) concealed conditions in the performance of the Work below the surface of the ground; or
(2) concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Drawings, Specifications, or Owner furnished information; or
(3) unknown physical conditions below the surface of the ground; or
(4) concealed or unknown conditions in an existing structure of an unusual nature;
(5) differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, then the Guaranteed Maximum Price and the Construction Completion date shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Article 10.2. and Article 11.

Upon discovery of concealed or unknown conditions, the Construction Manager shall notify the Owner and Architect/Engineer within twenty four (24) hours of discovery, and not proceed with Work until such notice has been given and a response is issued by the Owner. The Architect/Engineer will evaluate the alleged unknown or concealed condition and, if warranted, recommend to the Owner that the GMP and schedule be increased or decreased accordingly. No claim under this Article may be made unless notice, as herein provided, is given prior to Work being performed. No equitable adjustment shall be permitted if this

notice provision is not complied with.

Within ten (10) calendar days of submitting its Notice, the Construction Manager shall submit to the Owner its Request for Change Order, which shall include a written statement of all details of the claim, including a description of the work affected. Within thirty (30) days from Notice, the Construction Manager shall submit detailed schedule impact and detailed cost analysis indicating quantities, unit prices, etc.

10.1.7 The Construction Manager shall review any Owner directed change and shall respond in writing within seven (7) calendar days after receipt of the proposed change (or such other reasonable time as the Owner may direct), stating the effect of the proposed change upon the Construction Manager's Work, including any increase or decrease in the contract time or price. The Construction Manager shall furnish to the Owner an itemized breakdown of the quantities and prices used in computing the change in Contract price.

The Owner and Architect/Engineer shall review the Construction Manager's proposal and respond to the Construction Manager within seven (7) calendar days of receipt. If a change to the Contract price and time for performance are agreed upon, both parties shall sign the Change Order. Changes to the Contract time and/or price shall be effective when signed by both parties. It shall be the Owner's discretion as to whether each change order requires the A/E signature.

10.2 **Claims for Additional Cost or Time**

All claims for additional cost or time shall be made by request for a change order submitted as provided in Article 16.

10.2.1 If the Construction Manager is delayed at any time in the progress of the work by any act or neglect of the Owner or the Architect or of any employee of either or by any separate Construction Manager employed by the Owner or by any changes ordered in the work by labor disputes, fire, or unusual delay in transportation, unavoidable casualties or any causes beyond the Construction Manager's control or by delay authorized by the Owner pending resolution or disputes, and such delay extends the completion date, the Substantial Completion shall be extended by Change Order for such reasonable time as the Construction Team may determine.

10.2.2 All change orders must indicate that the Contract Time for Completion is not changed or is either increased or decreased by a specific number of days. The previous Time for Completion and, if there is one, the new Time for Completion must be stated. The Construction Manager must provide written justification for an extension of the Time for Completion to the Architect/Engineer and to the Owner. The written justification must demonstrate an anticipated actual increase in the time required to complete the Work beyond that allowed by the Contract as adjusted by prior change orders or amendments to the Contract, not just an increase or decrease in the time needed to complete some portion of the total Work. No increase to the Time for Completion shall be allowed unless the additional or changed Work increases the length of the critical path. Approved increases in time required to complete the Work shall be added to the Time for Completion. Decreases in time as a result of the change order shall be

demonstrated by a decrease in the critical path of the Work if CPM scheduling is properly used and updated by the Construction Manager. If no CPM is used the Owner shall determine the appropriate decrease by the best means possible. Approved decreases in the time needed to complete the Work shall be deducted from the Contract completion date. The change to time and Contract price allowed by each change order shall include all time and monetary impacts of the change, whether the change order is considered alone or with all other changes during the course of the project. Failure to include a change to time and Contract price in a change order shall waive any change to the time and Contract price unless the parties mutually agree in writing to postpone a determination of the change to time and price resulting from the change order. Such a determination may be postponed not more than forty five (45) days to give the Construction Manager an opportunity to demonstrate a change in the time and price needed to complete the Work.

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

10.3 Minor Changes in the Project (Realignment of Work)
The Owner and/or Architect/Engineer will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Construction Completion Date and not inconsistent with the intent of the Drawings and Specifications. Such changes shall be affected by written order. Documentation of changes shall be determined by the Construction Team, and included in the Project Manual. Changes shall be approved by the Project Director, Architect/Engineer. It shall be the Owner's discretion as to whether a Realignment of Work requires the A/E signature. All changes or realignments of work performed within the Guaranteed Maximum Price will not include overhead, profit or General Condition additional costs, since costs are absorbed within the Guaranteed Maximum Price (GMP).

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

ARTICLE 11

DISCOUNTS

11.1 All discounts for prompt payment shall accrue to the Owner to the extent the Cost of the Project is paid directly by the Owner or from a fund made available by the Owner to the Construction Manager for such payments.

To the extent the Cost of the Project is paid with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Project.

ARTICLE 12

PAYMENTS TO THE CONSTRUCTION MANAGER

12.1 Monthly Statements - The Construction Manager shall submit to the Owner a sworn statement along with the Certificate for Payment, showing in detail all monies paid out, cost accumulated or costs incurred on account of the Cost of the Project during the previous period and the amount of the Construction Manager's fees due as provided in Article 8. This data shall be attached to the Certificate for Payment Form shown in **Attachment "N"**, and shall include, but not be limited, to the following:

- Daily Reports;
- Updated Project Schedule;
- Daily Red line As-Builts review;
- Provide a billing report with each payment application that shows a breakdown of costs incurred by line item. This report should correspond with the amounts being charged on the Schedule of Values.
- Provide backup copies of all invoices that the County is being billed for, including vendor invoices, payments to subcontractors, cell phone statements, insurance, petty cash receipts, etc. These invoices should be coded by the line item that they correspond to on the billing report and Schedule of Values.
- Provide backup copies and documentation of all costs incurred under General Conditions.
- Provide backup copies of all payroll that details which labor amounts were paid to whom on a weekly basis.
- Provide copies of all subcontractor agreements.
  * The amounts charged on the Payment Application must be accurate and correspond with the total dollar amount of backup provided by the Construction Manager.

Payment by the Owner to the Construction Manager of the statement amount shall be made in accordance with Florida Statute 218.735.

> *Ten percent of each payment shall be held by the OWNER as retainage until 50-percent completion of such Project, which shall be deemed to have occurred when 50% of the GMP, as increased or decreased from time to time, has been expended. At that time, the retainage shall be reduced to 5% and the Construction Manager shall be entitled to request payment or release of up to 50% of the previously withheld retainage amounts, provided the retainage is not the subject of a good faith dispute, the subject of a claim brought pursuant to s. 255.05, Florida Statutes or otherwise the subject of a claim or demand by the OWNER.*

Owner may refuse to certify payment and withhold a Certificate for Payment in whole or in part, in accordance with subsection(s) above, to such extent as may be reasonably necessary to protect the Owner from loss because of:

(1) defective work not remedied;
(2) third party claims filed or reasonable evidence indicating probably filing of such

claims;

(3) failure of Construction Manager to make payments properly to subcontractors, consultants, or for labor, materials or equipment;

(4) evidence that the Project cannot be completed for the unpaid balance of the GMP, as adjusted;

(5) evidence that the Work will not be completed by the Scheduled Completion Date, as adjusted, and that the unpaid balance would not be adequate to cover the liquidated damages for the anticipated delay;

(6) failure to carry out the Work of the Project in accordance with the Contract Documents; or

If the Owner is unwilling to certify payment in the amount of the Application for Payment submitted by the Construction Manager, Owner will provide Construction Manager with written reasons for its refusal, within three (3) calendar days. If Construction Manager and Owner cannot agree on a revised amount, Owner will, within one (1) day of the aforesaid notification, promptly issue a Certificate for Payment as to the undisputed amount with respect to which Owner concurs.

12.2 Final Payment - Final payment constituting the unpaid balance of the Cost of the Project and the Construction Manager's fee, shall be due and payable in accordance with Florida Statutes after an *acceptable* Certificate of Final Completion has been issued **and all contractual closeout obligations have been met by the Construction Manager**. Before issuance of final payment, the Construction Manager, subcontractors and agents shall submit original, sworn, notarized statements that all payrolls, material bills, and other debts connected with the Project have been paid or otherwise satisfied, warranty information is complete, Final As-Builts in AutoCad format acceptable to the Owner, have been submitted and instruction and documentation for the Owner's operating and maintenance personnel is complete.

12.3 Payments for Materials and Equipment - Payments will be made for material and equipment not incorporated in the work but insured, itemized, delivered and suitably stored at the site or another location subject to prior approval and acceptance by the Owner on each occasion.

12.4 Withholding Payments to Subcontractors - The Construction Manager shall not withhold payments to Subcontractors if such payments have been made to the Construction Manager. Should this occur for any reason, the Construction Manager shall immediately return such monies to the Owner, adjusting pay requests and project bookkeeping, as required.

ARTICLE 13

INSURANCE, INDEMNITY WAIVER OF SUBROGATION

13.1 (1) Indemnification - The Construction Manager agrees to indemnify and hold harmless the County and their employees from all claims, losses and expenses, arising out of or resulting from the performance of the products or services to be contracted, provided such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, death or personal injury, or to property damage, including loss of use resulting therefrom, (but not loss of use for which liquidated

damages are assessed under the Agreement) and (2) is caused in whole or in part by any negligent act or omission of the Construction Manager, any subcontractor, any of their employees and/or agents in the performance of this contract. The Construction Manager agrees that it will pay the costs of the County's legal defense, including fees of attorneys as may be selected by the County, and shall defend, satisfy, and pay any judgments which may be rendered against the County in connection with the above hold harmless agreement. The Construction Manager acknowledges specific consideration has been received for this hold harmless/indemnification provision.

(2) The Owner shall cause any other Construction Manager who may have a contract with the Owner to perform construction or installation work in the area where work will be performed under this Agreement, to agree to indemnify the Owner and the Construction Manager and hold them harmless from all claims for bodily injury and property damage (other than property insured under Paragraph 13.2(3)) that may arise from the Construction Manager's operations.

Loss Deductible Clause - Brevard County Board of County Commissioners shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Construction Manager and/or Subcontractor providing such insurance.

13.2 Insurance

(1) The Construction Manager shall not commence any construction work in connection with this Agreement until the Construction Manager has obtained all of the following types of insurance and such insurance certificate(s) have been submitted to the Owner and have been approved by the Owner, nor shall the Construction Manager allow any Subcontractor to commence work on his subcontract until all insurance required of the Subcontractor has been so obtained and approved. All insurance policies shall be with insurers qualified and doing business in the State of Florida.

a. Worker's Compensation - Provide Worker's Compensation Insurance on behalf of all employees who are to provide a service for this project, as required under Florida Laws.

b. Commercial General Liability - Including but not limited to bodily injury, property damage and personal injury with limits of not less than $2,000,000.00 combined single limit per occurrence, including products and completed operations, to include:

1. "XCU" (Explosion, Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage.

2. Broad Form Property Damage Coverage, Products and Completed Operations Coverage - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages.

3. Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.

c. Automobile Liability - Including bodily injury, property damage liability for all vehicles owned, hired, leased and non-owned with limits of not less than $2,000,000.00 combined single limit, per accident.

d. Performance and Payment Bonds - With limits of not less than 100% of the total construction cost of this project. Payment and Performance Bond shall be recorded in the official record of the County in which the project is located. These bonds shall remain in effect at least until one (1) year after the date when the final payment is approved. Any bonding company submitting a Bid Bond, Performance Bond or Payment Bond to Brevard County must be licensed to transact a fidelity and surety business in the State of Florida, and hold a Certificate of Authority from the Secretary of the Treasury under Act of Congress, approved by July 30, 1947 (U.S.C. 613), and approved by Brevard County. Acceptable surety companies shall be licensed to do business in Florida and shall have an A.M. Best Rating of "A-" and financial size V or higher.

e. Builder's Risk Coverage - The Construction Manager shall take out and maintain during the life of this Agreement a "Builder's Risk Policy" completed value form as a cost of the Project, issued to provide coverages on an "all risk" basis including theft. This coverage shall not be lapsed or canceled because of partial occupancy by the Owner prior to final acceptance of the Project.

The Construction Manager shall require each of his Subcontractors to procure and maintain insurance during the life of the respective subcontracts.

(2) Certificate of Insurance - The Owner shall be furnished proof of coverage of Insurance as follows:

Certificate(s) of Insurance will be furnished to the Owner within five (5) days of Notice to Proceed. These shall be completed and signed by the authorized Resident Agent, and shall be dated and show:

(1) The name of the insured Construction Manager, the specific job by name and job number, the name of the insurer, the number of the policy, its effective date, and its termination date.

(2) The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the County as an additional insured to the extent of liability assumed by the Construction Manager under this Agreement, and that these policies may not be canceled or modified without thirty (30) days prior written notice to the County.

(3) The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the Construction Manager under the terms of the Contract.

*Certificates of Insurance shall be submitted to the Owner within five (5) days of Notice to Proceed, and no work shall commence on site until all submitted Certificates of Insurance are acceptable to the Owner.

13.3 Waiver of Subrogation

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

13.3.2 The Owner and Construction Manager waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.

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

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

ARTICLE 14

TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATION

14.1 Termination by the Construction Manager - If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of thirty (30) days by the Owner, then the Construction Manager may, upon seven (7) days written notice to the Owner, request undisputed payment for all work executed, the Construction Manager's fee earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment, and machinery, including reasonable profit, damages and terminal expenses incurred by the Construction Manager.

14.2 Owner's Right to Perform Construction Manager's Obligations and Termination by Owner for Cause -

(1) If the Construction Manager fails to perform any of its obligations under this Agreement, the Owner may, after seven (7) days written notice during which period the Construction Manager fails to perform such obligations, make good such deficiencies. The GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the Owner to making good such deficiencies and the Construction Manager's Construction Phase Fee shall be reduced by an amount required to manage the making good of such deficiencies.

(2) If the Construction Manager is adjudged a bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule (failure to maintain schedule shall be defined as any activity on the critical path that falls forty-five (45) days or more behind schedule) which has been adopted by the Construction Team, or if he fails to make prompt payment to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Agreement, then the Owner may, without prejudice to any right or remedy and after giving the Construction Manager and his surety, if any, seven (7) days written notice, during which period Construction Manager fails to cure the violation, terminate the employment of the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall he be relieved from his obligations assumed under Article 7. Reasonable termination expenses incurred by the Owner may be deducted from any payments left owing the Construction Manager (excluding monies owed the Construction Manager for subcontract work).

14.3 Termination by Owner for Convenience

(1) If the Owner terminates this Agreement other than pursuant to Article 14.2(2) or Article 14.3(2), he shall reimburse the Construction Manager for any unpaid cost of the Project due him under Article 9, plus that part of the unpaid balance of the Construction Phase Fee in an amount as will increase the payment on account of his fee to a sum which bears the same ratio to the Construction Phase Fee as the Cost of the Project at the time of termination bears to the Guaranteed Maximum Price, if established, otherwise to the Owner's Construction Budget. The Owner shall also pay to the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment retained. In case of such termination of Agreement the Owner shall reimburse the Construction Manager for obligations and commitments made before notice of termination was received by the Construction Manager.

(2) After the establishment of the Guaranteed Maximum Price or at the completion of the Construction Phase, if the final cost estimates or lack of legislative funding make the Project no longer feasible from the standpoint of the Owner, the Owner

may terminate this Agreement and pay the Construction Manager his proportionate fee due in accordance with Article 8.1, plus any costs incurred pursuant to Articles 9 and 10.

(3) Any termination by Owner for cause which is later determined to be invalid shall be considered a termination by Owner for convenience.

14.4 Termination for Prohibition Against Contracting With Scrutinized Companies

The Construction Manager certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Owner may immediately terminate this Agreement at its sole option if the Construction Manager or its subcontractors are found to have submitted a false certification; or if the Construction Manager, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

If this Agreement is for more than one million dollars, the Construction Manager certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Owner may immediately terminate this Agreement at its sole option if the Construction Manager, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Construction Manager, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

The Construction Manager agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

(2) As required by § 287.135(5), Florida Statutes, prior to entering into a agreement/contract (formal contract or purchase order in excess of $1 million dollars to provide goods or services to Owner/Brevard County, individual with authority to execute this Agreement for the Construction Manager shall file a sworn statement with the contracting officer or Purchasing Director, as applicable verifying that none of the three conditions above exist. If the Construction Manager is found to have falsified the affidavit attached as Attachment "O", the County/Owner may terminate the contract.

(3) If subsequent to the submittal of the attached affidavit, the Construction Manager -(1) has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel; (2) is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or (3) is engaged in business operations in Cuba or Syria, the County/Owner may terminate the agreement/contract.

ARTICLE 15

ASSIGNMENT AND GOVERNING LAW

15.1 Neither the Owner nor the Construction Manager shall assign his interest in this Agreement without the written consent of the other except as to the assignment of proceeds.

15.2 This Agreement shall be governed by the Laws of the State of Florida.

15.3 Venue and Attorney's Fees: Venue for any legal action brought by any party to this Agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida. In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

15.4 Severability: If any provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired.

ARTICLE 16

NOTICE OF CLAIM: WAIVER OF REMEDIES; NO DAMAGES FOR DELAY; DISPUTE RESOLUTION

16.1 The Owner's liability to Construction Manager for any claims arising out of or related to the subject matter of this contract, whether in contract or tort, including, but not limited to, claims for extension of construction time, for payment by the Owner of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:

(a) All claims must be submitted as a Request for Change Order in the manner as provided herein;

(b) If the Construction Manager claims that any instructions given to him by the Architect/Engineer or by the Owner, by drawings or otherwise, involve extra Work not covered by the Contract and not discoverable with a review of the plans and specifications, then, except in emergencies endangering life or property, Construction Manager shall give the Architect/Engineer and the Owner written notice thereof before proceeding to execute the Work. Said notice shall be given promptly enough to avoid delaying the Work and in no instance later than twenty (20) calendar days after the receipt of such instructions.

The Construction Manager must submit a Notice of Claim to the Owner and to the Architect/Engineer within twenty (20) days of when the Construction Manager was or should have been aware of the occurrence of the event giving rise to the claim; and

(c) Within ten (10) days of submitting its Notice of Claim, the Construction Manager shall submit to the Owner its Request For Change Order, which shall include a

written statement of all details of the claim, including a description of the work affected. Within thirty (30) days from the Notice of Claim the Construction Manager shall submit a detailed schedule impact and detailed cost analysis indicating quantities, unit prices, etc. establishing the basis for the amount of the claim.

The Construction Manager agrees that the Owner shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this section.

16.2 After receipt of a Request for Change Order, the Owner, in consultation with the Architect/Engineer, shall deliver to the Construction Manager its written determination of the claim. As to disputed matters subject to the determination by final Owner action (not actions for breach of contract or tort) the Owner's written decision following compliance with the dispute resolution procedure set forth in sections 16.4 through 16.6 below shall be final Owner action.

16.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 8, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the Owner or the Architect/Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 16.1 above, for an extension of the scheduled construction time. In the event of a change in such work that will modify the GMP, the Construction Manager's claim for adjustment in contract sum are limited exclusively to its actual costs for such changes, including costs involved in claim preparation, plus five percent (5%) overhead, five percent (5%) profit and a two percent (2%) bond in the General Conditions. The Construction Manager expressly agrees that the foregoing constitute its sole and exclusive remedies for delays and changes in such work, and eliminate any other remedies for claim for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

16.4 In the event of any dispute over a proposed change order or any other matter arising out of the implementation or interpretation of this contract the following dispute resolution process shall apply.

(a) Within three (3) days after denial of a contractor's change order or contract modification request in an amount, individually or in total, less than the authorized purchasing level approved for the County Manager by the County Commission (currently at $100,000) the contractor may submit to the County Manager or a designee with experience in the oversight of construction projects for a department or business other than the department responsible for monitoring the disputed request, documentation of the contractor's position in the dispute or disagreement. The County Manager or designee, within five (5) days after the receipt of the contractor's documentation, shall review the request and make a final determination as to whether denial was arbitrary or capricious based upon the sufficiency of the work under the terms of the contract, applicable regulations and relevant construction standards. Based upon the sufficiency and degree of completion, as well as any defects in the work and the amount reasonably required, if any, to correct or repair defective work, the reviewer shall

make the final determination as to whether a written change order or contract modification should be approved by the County Manager.

(b) If the denied request or disputed amount exceeds the County Manager's purchasing authority, the County Manager shall present a report, recommendation and the contractor's claim and documentation, to the County Commission for a final determination within thirty (30) days after receiving the contractor's documentation for the claim. The Commission shall make its decision using the standards specified in subparagraph (a) above.

16.5 Within thirty (30) days after denial of a request for a change order or contract modification by the project manager or engineer involving (1) an amount in excess of the County Manager's expenditure authority or (2) for the amount the contractor claims to be due at the time the project is ready for beneficial use or occupation, the County may, at the County's option in lieu of the procedure specified in subparagraph 16.4, submit the dispute to a mediator with knowledge or experience in construction management, as agreed upon by the parties. Upon referral to a mediator, the County and contractor shall each pay half the estimated cost of the mediator, up front. Within fifteen (15) days after the date of submittal, the mediator, applying the standards set forth in subparagraph 16.4, shall investigate the dispute and submit a written recommendation for disposition of the dispute to the County Manager or a designee with the qualifications specified in subparagraph 16.4. Within fifteen (15) days after receiving the mediator's recommendation, the County Manager shall submit the recommendation to the County Commission, along with a staff report analyzing the dispute and mediator's recommendation. Based on the standards set forth in subparagraph 16.4 above, the Commission shall decide whether to grant or deny, in whole or in part, the amounts recommended by the mediator. The Commission's decision will be deemed final action on the disputed claim for the purposes of ripening the decision for judicial review. If the mediator recommends that no change order or contract modification be granted, the contractor shall reimburse the county for any amounts paid by the county to the mediator.

16.6 The deadlines for completing the dispute resolution process described in subparagraphs 16.4 and 16.5 may be extended by mutual agreement of the contractor and the county.

ARTICLE 17

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

17.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Construction Manager claims that a delay or additional cost is involved because of such action by the Owner, the Construction

Manager shall make such claim as provided in this Agreement.

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

17.3 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Construction Manager under the Conditions of the Contract.

17.4 The Construction Manager shall afford the Owner, and separate contractors, reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with the Construction Manager, as required.

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

17.6 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible thereof.

17.7 The Construction Manager shall promptly remedy damage wrongfully caused by the Construction Manager to completed or partially completed construction or to property of the Owner or separate contractors.

ARTICLE 18

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) REQUIREMENTS

During the performance of this Agreement, the CONSTRUCTION MANAGER agrees as follows:

18.1. The CONSTRUCTION MANAGER will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONSTRUCTION MANAGER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment

advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSTRUCTION MANAGER agrees to post in conspicuous places, available to all employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.

18.2. The CONSTRUCTION MANAGER will, in all solicitations or advertisements for employees placed by or on behalf of the CONSTRUCTION MANAGER, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

18.3. The CONSTRUCTION MANAGER will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the CONSTRUCTION MANAGER's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

18.4. The CONSTRUCTION MANAGER will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.

18.5. The CONSTRUCTION MANAGER will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

18.6. In the event of the CONSTRUCTION MANAGER's non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONSTRUCTION MANAGER may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

18.7. The CONSTRUCTION MANAGER will include the portion of the sentence immediately preceding paragraph (18.1) and the provisions of paragraphs (18.1) through (18.7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONSTRUCTION MANAGER will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the CONSTRUCTION MANAGER becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the CONSTRUCTION MANAGER may request the United States to enter into such litigation to protect the interests of the United States.

18.8. **Clean Air Act and the Federal Water Pollution Control Act**: (For all contracts in excess of $150,000)

A. **Clean Air Act** –

i. The CONSTRUCTION MANAGER agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

ii. The CONSTRUCTION MANAGER agrees to report each violation to the County through its Parks and Recreation Department and understands that the Brevard County Parks and Recreation Department will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

iii. The CONSTRUCTION MANAGER agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

B. **Federal Water Pollution Control Act** -

i. The CONSTRUCTION MANAGER agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

ii. The CONSTRUCTION MANAGER agrees to report each violation to the County through its Parks and Recreation Department and understands and agrees that the Brevard County Parks and Recreation Department will, in turn, report each violation to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

iii. The CONSTRUCTION MANAGER agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

18.9. **Suspension and Debarment**:

A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONSTRUCTION MANAGER is required to verify that neither the CONSTRUCTION MANAGER, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

B. The CONSTRUCTION MANAGER must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

C. This certification is a material representation of fact relied upon by the County. If it is later determined that the CONSTRUCTION MANAGER did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available

to the State of Florida (Division of Emergency Management) and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

D. The CONSTRUCTION MANAGER 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 Agreement is valid. The Contractor agrees to include a provision requiring such compliance in its lower tier covered transactions.

18.10. **Byrd Anti-Lobbying Amendment, 31 U.S.C. . § 1352 (as amended):**

Contractors who apply or bid for an award of $100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the recipient.

18.11. **Procurement of Recovered Materials**:

In the performance of this Agreement, the CONSTRUCTION MANAGER shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

A. Competitively within a timeframe providing for compliance with the Agreement performance schedule;

B. Meeting Agreement performance requirements; or

C. At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website at https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

18.12. **Additional FEMA Requirements**:

A. **Access to Records**:

i. The CONSTRUCTION MANAGER agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers and records of the CONSTRUCTION MANAGER which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.

ii. The CONSTRUCTION MANAGER agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

iii. The CONSTRUCTION MANAGER agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Agreement.

B. **DHS (Department of Homeland Security) Seal, Logo and Flags**:

The CONSTRUCTION MANAGER shall not use DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

C. **Compliance with Federal Law, Regulations and Executive Orders**:

The CONSTRUCTION MANAGER acknowledges that FEMA financial assistance will be used to fund this Agreement and resulting Agreements only. The CONSTRUCTION MANAGER will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures and directives.

D. **No Obligation by Federal Government**:

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONSTRUCTION MANAGER, or any other party pertaining to any matter resulting from the Agreement.

E. **Fraud and False or Fraudulent or Related Acts**:

The CONSTRUCTION MANAGER acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONSTRUCTION MANAGER 's actions pertaining to this Agreement.

ARTICLE 19

MISCELLANEOUS

19.1 Interest - Any monies not paid when due to either party under this contract shall not bear interest except as may be required by Section 218.70 et seq., Florida Statutes, ("The Florida Prompt Payment Act").

19.2 Harmony - Construction Manager is advised and hereby agrees to exert every reasonable and diligent effort to assure that all labor employed by Construction Manager and his Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and Construction Managers now or hereafter on the site of the Project.

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

19.3 Apprentices - If the Construction Manager employs apprentices on the project, the behavior of the Construction Manager and the Owner shall be governed by the provision of Chapter 446, Florida Statutes, and by applicable standards and policies governing apprentice programs and agreements established by the Division of Labor of the State of Florida Department of Labor and Employment Security. The Construction Manager will include a provision similar to the foregoing sentence in each subcontract.

19.4 Minority Participation - The Construction Manager shall *diligently attempt* to award his material contracts, subcontracts and sub-subcontracts to firms having a letter of certification as a minority business from the "Office of Minority Business Assistance, Department of General Services, or any other Federal, Florida County or City certification.

19.5 Minority Employment Information - The Board of County Commissioners requires construction contracts, who would otherwise be required to file and EEO Form 1 Report under Federal Law (currently Federal law requires filing for employers with more than 15 employees), to submit an EEO Form 1 Report with the submission of their GMP. This requirement extends to any subcontractors who are required to submit the EEO Form 1 Report (over 15 employees) under Federal law. Failure to submit an EEO Form 1 Report with your GMP will be reason to declare your proposal "non-responsive" to the proposal requirements. However, the information will be used for statistical purposes only and will not be used in any way as a basis to award a contract. See **Attachment "P"**.

19.6 Public Entity Crime Affidavit attached as **Attachment "Q"**.

19.7 Non-Collusion Affidavit of Prime Bidder attached as **Attachment "Q"**.

19.8 Copyright Clause No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the Owner, under this agreement shall be subject to copyright by Contractor in the United States or any other Country.

19.9 E-Verify The Construction Manager:
A. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Construction Manager during the term of the agreement; and
B. shall expressly require any contractor and subcontractors performing work or providing services pursuant to this agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term."

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

ATTEST:

Scott Ellis, Clerk

Reviewed for legal form and content:

Matthew Soss, Assistant County Attorney

11/16/18
Date

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA

By
Rita Pritchett, Chair
Brevard County Commission

As Approved By the Brevard County Commission on: 10/10/17

CANAVERAL CONSTRUCTION CO., INC.

BY: David Nash, President

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 16th day of November 201 8 by whose position is President with the firm of Canaveral Construction, a Florida Corporation, on behalf of the corporation. He/She is personally known to me or has produced Drivers License as identification.

Susan Eichenlaub
NOTARY PUBLIC

Susan Eichenlaub
Typed/Printed Name

Notary Public State of Florida
Susan Eichenlaub
My Commission FF 243141
Expires 07/31/2019

ATTACHMENT "A"

CONSTRUCTION TEAM ASSIGNED REPRESENTATIVES

Owner
Brevard County Parks and Recreation Department

Mike Butcher	Project Director
	Construction Coordinator
Melissa Renninger	Contract Administrator
	Special Projects Coordinator II

Architect-Engineer Morgan & Associates Consulting Engineers, Inc.

Construction Manager

Davis Nash	President
Michael Harkcom	Vice President/Principal-In-Charge
Michael Harkcom	Project Manager
Dirk Neuerburg	Project Administrator
Justin Nash	Project Superintendent
Phil Siegel	Estimator/Cost Control
	Schedules

ATTACHMENT "B"

PROJECT SCOPE OF WORK

Provide all labor, materials, and equipment for

1) Demolish, remove and dispose of existing piles, docks, walkway and roof structure.
2) Furnish & Install new piles, docks, walkway & roof structure with Kynar painted aluminum roof.
3) Furnish & Install vinyl Shoreguard sheet pile wall.
4) Furnish & Install concrete wall cap with tiebacks to concrete deadmen.
5) Backfill of eroded areas at seawall.

ATTACHMENT "C"

DIRECT PURCHASING PROCEDURE
CONSTRUCTION MANAGEMENT AGREEMENT

INTENT: The Owner of this Project, Brevard County, Florida, intends that these procedures govern the County's direct purchases of selected materials so that the County may take advantage of its tax exempt status. All monies which would have been payable as taxes, if not for Owner direct purchase under these procedures, will inure solely to the benefit of the Owner. The Owner's direct purchase of materials will not minimize or conflict with the Construction Manager's responsibility for the purchase, installation, coordination, storage, protection, warranty, etc. of the materials as described herein and in the plans and specifications of the Contract.

Definitions: For the purpose of these Procedures, the following words have the following definitions.

a) Contract: Construction Management Agreement by and between Construction Manager and Brevard County Board of County Commissioners, Viera, Florida to provide labor, materials, and equipment for dock replacement.

b) County Purchased Materials: Materials purchased directly by the Owner through execution and delivery of a Purchase Order.

c) GMP - Guaranteed Maximum Price established under the Contract.

d) Materials: Tangible Personal Property necessary for completion of the Project.

e) Materials Deduction Summary: Written document signed by Owner's representative and Construction Manager setting forth the amounts of County Purchased Materials, plus applicable taxes were the purchase not exempt from such taxes, as reflected in the parties' previously executed deductive change order(s) to the Contract showing deduction of such Materials from the GMP.

f) Owner: See Definition in Article I, section 1.3.

g) Owner's Representative: See Definition in Article I, section 1.3.

h) Project: See Definition in Article I, section 1.3.

i) Purchase Order: The Owner's request for Materials from a particular vendor or supplier when fully executed and delivered to the Construction Manager, and the Owner's promise to pay for the Material specified upon delivery and acceptance at the Project Site, and presentation of an invoice by the Construction Manager to the Owner certifying payment of same.

j) Material Requisition: A request by the Construction Manager to the Owner that

the Owner directly purchase specific items described in sufficient detail, including quantity, grade, brand, etc., along with the vendor or material supplier and that vendor or material supplier's quoted price for the Materials.

Overview: The Owner requires the Construction Manager (hereinafter, "Manager") to notify the Owner's Representative of Materials needed for the Project exceeding $5,000.00 in value, through a Material Requisition form. For the purpose of these Procedures, the Manager will assign to the Owner any rights the Manager may have under quotes, contracts or commitments received from the particular vendor or supplier for the Materials described in the Material Requisition. Any Materials purchased by Owner pursuant to these Procedures shall be referred to as "County Purchased Materials", and the responsibilities of the Owner and Manager relating to such County Purchased Materials shall be governed by the terms and conditions of these Procedures, which shall take precedence over other conditions and terms of the Contract Documents where inconsistencies or conflicts exist. The invoiced amount of County Purchased Materials and applicable sales tax had the purchases not been tax exempt, once finalized through the Owner's Purchase Order and after confirmation of completed delivery and acceptance pursuant to this Procedure, will be deducted from the GMP, as defined in the Contract, by deductive change order.

Owner Direct Purchasing Requirements and Procedures: When a Materials purchase for the Project is estimated to be $5,000 or greater and time will allow for an Owner Direct Purchase, Manager shall prepare a Material Requisition form, *(to be provided by the Owner)*, acceptable to Owner, and which specifically identifies the Materials which Owner may, in its discretion, elect to purchase directly. The Material Requisition form shall be complete when submitted, and all information requested provided. Along with the Material Requisition the Construction Manager must provide:

a) The name, address, telephone and fax number and contact person for the material supplier;
b) Manufacturer or brand, model or specification number of the item;
c) Quantity needed as estimated by Manager;
d) The price quoted by the supplier for the Materials identified therein;
e) Any sales tax associated with such quote if it were not purchased by a tax exempt entity;
f) Shipping and handling cost, including associated insurance;
g) Delivery dates as established by the Manager;
h) Subcontractor's written acknowledgment of these Procedures for Owner Direct Purchase of Materials.

After receipt of the Material Requisition, the Owner's Representative will determine whether the Owner will directly purchase the Materials described in the Material Requisition, and communicate consent or decline to purchase the materials to the Manager within twenty four (24) hours. Brevard County's Purchasing Division shall be the Owner's approving authority on Purchase Orders of County Purchased Materials. If the Owner consents to purchase the Materials, the Owner shall issue a Purchase Order for same. The Owner shall issue the original Purchase Order, and the Manager shall deliver the Purchase Order to the subcontractor. The Purchase Order shall require (1) that the supplier provide the required shipping, (2) that the supplier provide the required shipping and handling insurance, and (3) delivery of the County Purchased Materials on the delivery dates provided by the Manager in the Material Requisition.

The Manager shall be fully responsible for all matters relating to the receipt of County Purchased Materials under these Procedures, including, but not limited to, preparation of shop drawings and submittals, verifying correct quantities, verifying documents of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials due to the negligence of the Manager. The Manager shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Manager for the Materials furnished. The Manager shall provide all services required for the unloading, handling and storage of Materials through installation. The Manager agrees to indemnify and hold the Owner harmless from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions of Manager.

The Manager shall insure that County Purchased Materials conform to the Specifications, and determine prior to incorporation into the Work, if such Materials are patently defective, and whether such Materials are identical to the Material ordered and match the description on the bill of lading. As County Purchased Materials are delivered to the job site, the Manager shall inspect all shipments from the suppliers, and, if in conformance with the Purchase Order, approve the vendor's invoice for materials delivered. The Manager shall assure that each delivery of County Purchased Material is accompanied by documentation adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of an itemized delivery ticket, packing slip or invoice from the supplier conforming to the Purchase Order against which the purchase is made, together with such additional information as the Owner may require. The Manager will then forward the documentation to the Owner.

If the Manager discovers defective or non-conformities in County Purchased Material upon inspection, the Manager shall not use such non-conforming or defective Materials in the Work and instead shall promptly notify the Owner of the defective or non-conforming conditions and coordinate the repair or replacement of those Materials without any undue delay or interruption to the Project. All repair, maintenance or damage-repair calls shall be forwarded to the Manager for resolution with the appropriate supplier, vendor, or subcontractor. If the Manager fails to perform such inspection, the condition of which the Manager either knew or should have known by performance of an inspection, Manager shall be responsible for all damages to the County resulting from Manager's incorporation of such Materials into the Project, including liquidated or delay damages.

On a bi-weekly basis, Manager shall be required to review invoices submitted by all suppliers of County Purchased Materials delivered to the Project Site during that month and either concur or object to the Owner's issuance of payment to the suppliers, based on Manager's records of materials delivered to the site. In order to arrange for the prompt payment to the supplier, the Manager shall provide to the Owner a list indicating the acceptance of the goods or materials within fifteen (15) days of receipt of said invoice for goods or materials. The list shall reference the applicable purchase order and include a copy of the invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the Owner. Upon receipt of the appropriate documentation in duplicate, the Owner shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be delivered directly to the supplier. If any discounts are available from the supplier or vendor, they shall accrue to the benefit of the Owner, and the amount quoted by the vendor, plus applicable tax, shall be deducted from the GMP. The Manager agrees to assist the Owner to immediately obtain partial or final releases or waivers as appropriate.

Following performance of the Purchase Orders by the suppliers, and submittal of documentation confirming same to Owner with an invoice for payment by Owner, the Manager shall execute and deliver to the Owner at the end of each month along with the Manager's regular pay requests, a Materials Deduction Summary setting forth the full value of all County Purchased Materials, plus all taxes which would have been payable on the purchase of the Materials had they not been Owner purchased. The Materials Deduction Summary shall show all sums to be deducted by an appropriate deductive change order, and ultimately the GMP, to date. The Board of County Commissioners, or their authorized representative, shall be the approving authority for the Owner on the Materials Deduction Summary for County Purchased Materials.

The Manager shall maintain records of all County Purchased Materials incorporated into the Work. These records shall be available for inspection by the Owner upon request.

Notwithstanding the delivery of County Purchased Materials to the Project Site for the Manager's inspection, custody and incorporation into the Work, the Owner shall retain legal and equitable title to any and all County Purchased Materials. The transfer of possession of County Purchased Materials from the Owner to the Manager shall constitute a bailment for the mutual benefit of the owner and the Manager solely for the purposes set forth herein. The Owner shall be considered the bailer and the Manager the bailee of the County Purchased Materials. County Purchased Materials shall be considered returned to the Owner for purposes of their bailment at such time as they are incorporated into the Project or are returned to the vendor or supplier at the discretion of the Manager prior to payment for the Purchase Order by Owner.

The Owner shall purchase and maintain Builder's Risk Insurance sufficient to protect against any loss or damage to County Purchased Materials. Such insurance shall cover the full value of any County Purchased Materials not yet incorporated into the Project from the time the Owner first takes title to any of such County Purchased Materials and the time when the last of such County Purchased Materials is incorporated into the Project, or are returned to the vendor at the Manager's discretion prior to Owner's payment for same.

The Owner shall in no way be liable for any interruption or delay in the Project, for any defects or other problems with the Project, or any extra costs or time resulting from any delay in the delivery of, or defects in, County Purchased Materials.

ATTACHMENT "D"

DRAWINGS AND SPECIFICATIONS

attached

CONSTRUCTIO
PARRISH PARK DOC
TITUSVIL

~LEGEND~

A/C	= AIR CONDITIONING
BFP	= BACKFLOW PREVENTER
BFV	= BUTTERFLY VALVE
BO	= BLOW OFF
C.B.S.	= CONCRETE BLOCK & STUCCO
℄	= CENTERLINE
CMP	= CORRUGATED METAL PIPE
CPP	= CORRUGATED POLYETHYLENE PIPE
CONC	= CONCRETE
DSI	= DITCH BOTTOM INLET
DDC	= DOUBLE DETECTOR CHECK-VALVE
DP	= DRAINAGE PIPE
DS	= DRAINAGE STRUCTURE
EL	= ELEVATION
ESMT.	= EASEMENT
FDEP	= FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FDOT	= FLORIDA DEPARTMENT OF TRANSPORTATION
FFEL	= FINISHED FLOOR ELEVATION
FH	= FIRE HYDRANT
FL	= FLOW LINE
HDPE	= HIGH DENSITY POLYETHYLENE
INV.	= INVERT
MH	= MANHOLE
M.E.G.	= MATCH EXISTING GRADE
MES	= MITERED END SECTION
N.G.V.D.	= NATIONAL GEODETIC VERTICAL DATUM(1929)
N.A.V.D.	= NORTH AMERICAN VERTICAL DATUM(1988)
N.T.S.	= NOT TO SCALE
P.C.	= POINT OF CURVATURE
P.C.P.	= PERMANENT CONTROL POINT
P.I.	= POINT OF INTERSECTION
P.O.B.	= POINT-OF-BEGINNING
P.O.C.	= POINT-OF-COMMENCEMENT
P.R.C.	= POINT OF REVERSE CURVE
P.R.M.	= PERMANENT REFERENCE MONUMENT
P.T.	= POINT OF TANGENCY
P.U./D.E.	= PUBLIC UTILITY AND DRAINAGE EASEMENT
PVC	= POLYVINYL CHLORIDE PIPE
PVI	= POINT OF VERTICAL INTERSECTION
R	= RADIUS
RCP	= REINFORCED CONCRETE PIPE
R/W	= RIGHT-OF-WAY
SS	= SANITARY SEWER
SSMH	= SANITARY SEWER MANHOLE
TAN	= TANGENT
TOE	= TOP OF BANK
TOS	= TOE OF SLOPE
TYP.	= TYPICAL

= DOUBLE DETECTOR CHECK-VALVE
= BLOW OFF
= TEE
= REDUCER
= INLET
= SEWER CLEAN-OUT
= PLUG VALVE
= CROSS
= DIRECTION OF FLOW
= SANITARY SEWER MANHOLE
= STORM DRAIN MANHOLE
= FIRE HYDRANT WITH VALVE ASSEMBLY
= MANUAL AIR RELEASE VALVE
= HANDICAP PARKING SPACE
= SANITARY SEWER SERVICE
= UNDERGROUND T.V. CABLE PEDESTAL
= UNDERGROUND TELEPHONE CABLE PEDESTAL
= UNDERGROUND ELECTRIC SERVICE
= WATER METER
= REUSE METER
= WELL
= UTILITY POLE
= LIGHT POLE
= TRAFFIC SIGN
+XX.XX = EXISTING ELEVATION
28.5 = PROPOSED SPOT ELEVATION
= WATER VALVE

OHP OHP = OVERHEAD WIRE
= CENTERLINE
= RIGHT OF WAY
= PROPERTY LINE
= EASEMENT LINE
= CENTERLINE OF SWALE/TOE OF SLOPE
= TOP OF BANK (ARROWS POINT DOWN SLOPE)
SD = STORM SEWER
WM = WATER MAIN
= FORCE MAIN
RU = REUSE
SS = SANITARY SEWER
= GUARD RAIL
= IRON ROD FOUND
= IRON ROD SET
= IRON ROD PREVIOUSLY SET
= 4"x4" CONCRETE MONUMENT FOUND
= 4"x4" CONCRETE MONUMENT SET
= CONCRETE MONUMENT PREVIOUSLY SET
= NAIL & DISK FOUND
= NAIL & DISK SET
= NAIL & DISK PREVIOUSLY SET
= BENCHMARK
= MITERED END SECTION
= BEND (DEGREE NOTED ON PLAN)
= GUY ANCHOR & WIRE
= STORM STRUCTURE
= TRANSFORMER

GENERAL NOTES

1. THE CONTRACTOR MUST THOROUGHLY REVIEW THIS PLAN SO AS TO BE PREPARED TO PRESENT HIS BID PRICES IN THE CONTRACT DOCUMENTS. THE PLAN SUFFICIENTLY DELINEATES THE SCOPE AND INTENT OF THE WORK TO BE COMPLETED. IT WILL THEREFORE BE INCUMBENT ON THE CONTRACTOR TO ADJUST HIS FEE TO REFLECT ANY AND ALL ITEMS WHICH MAY NOT BE INDICATED, BUT WHICH ARE NECESSARY TO SUCCESSFULLY COMPLETE THIS PROJECT WITHOUT ADDITIONAL COST TO THE OWNER.
2. EXISTING UTILITIES ARE TO BE PROTECTED BY THE CONTRACTOR. ANY UTILITIES DAMAGED BY THIS CONSTRUCTION WILL BE REPAIRED AT THE CONTRACTORS EXPENSE.
3. CONTRACTOR SHALL NOTIFY UTILITY COMPANIES A MINIMUM OF 48 HOURS IN ADVANCE OF ANY EXCAVATION INVOLVING THEIR LINES SO THEIR OWNER'S REPRESENTATIVES MAY BE PRESENT PRIOR TO CONSTRUCTION.
4. CONTRACTOR SHALL LOCATE ALL EXISTING UTILITIES IN THE FIELD WITH UTILITY OWNER'S REPRESENTATIVE PRIOR TO CONSTRUCTION. ANY DISCREPANCIES BETWEEN EXISTING CONDITIONS AND PLAN CONDITIONS SHALL BE BROUGHT TO THE ENGINEER'S ATTENTION IMMEDIATELY.
5. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING THE LATEST REVISED AND APPROVED PLANS FROM THE DESIGN FIRM. ANY QUESTIONS AND OR DESIGN DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
6. THE CONTRACTOR IS RESPONSIBLE FOR CHECKING DIMENSIONS AND SITE CONDITIONS AND REPORT ANY DISCREPANCIES TO THE ENGINEER PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.
7. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST ADOPTED RULES AND ORDINANCES OF BREVARD COUNTY. THE CONTRACTOR MUST OBTAIN ALL REQUIRED PERMITS BEFORE THE COMMENCEMENT OF CONSTRUCTION.
8. THE CONTRACTOR MUST NOTIFY THE ENGINEER IF SOIL OR SUBSURFACE CONDITIONS UNSUITABLE FOR CONSTRUCTION ARE ENCOUNTERED. ALL EXCAVATED MATERIALS DEEMED UNSUITABLE SHALL BE REMOVED AND DISPOSED OF BY THE CONTRACTOR AT HIS OWN EXPENSE.
9. ITEMS IN CONFLICT WITH THE CONSTRUCTION OF THE DESIGN SUCH AS EXISTING SIDEWALKS, PAVEMENT, DRAINAGE STRUCTURES, AND EXCESS EXCAVATION ARE TO BE REMOVED BY THE CONTRACTOR. THE DISPOSAL OF SUCH ITEMS MUST BE DONE IN A LEGAL AND PROPER MANNER AWAY FROM THE JOB SITE.
10. WHEN REFERENCED TO F.D.O.T. REFERS TO FLORIDA DEPARTMENT OF TRANSPORTATION ROADWAY AND TRAFFIC DESIGN STANDARDS.
11. THE CONTRACTOR SHALL RESTORE ALL AREAS DISTURBED BY THIS CONSTRUCTION TO A CONDITION EQUAL TO, OR BETTER THAN EXISTING.
12. ANY DAMAGE TO THE EXISTING INFRASTRUCTURE, INCLUDING SIDEWALKS, DRIVEWAYS, AND BOAT RAMP BY THE CONTRACTOR MUST BE REPLACED PRIOR TO FINAL INSPECTION. PATCHING IS NOT ACCEPTABLE.
13. CONTRACTOR IS RESPONSIBLE TO PROTECT AND/OR REPLACE ANY DISTURBED/REMOVED DURING CONSTRUCTION SURVEY MONUMENTATION WITHIN THE PROJECT LIMITS/PROPERTY BY A LICENSED SURVEYOR IN THE STATE OF FLORIDA.

	SI
C-1	COVE
C-2	EXIST
C-3	SITE
S-1	STRU
S-2	STRU
S-3	STRU

REVISIONS

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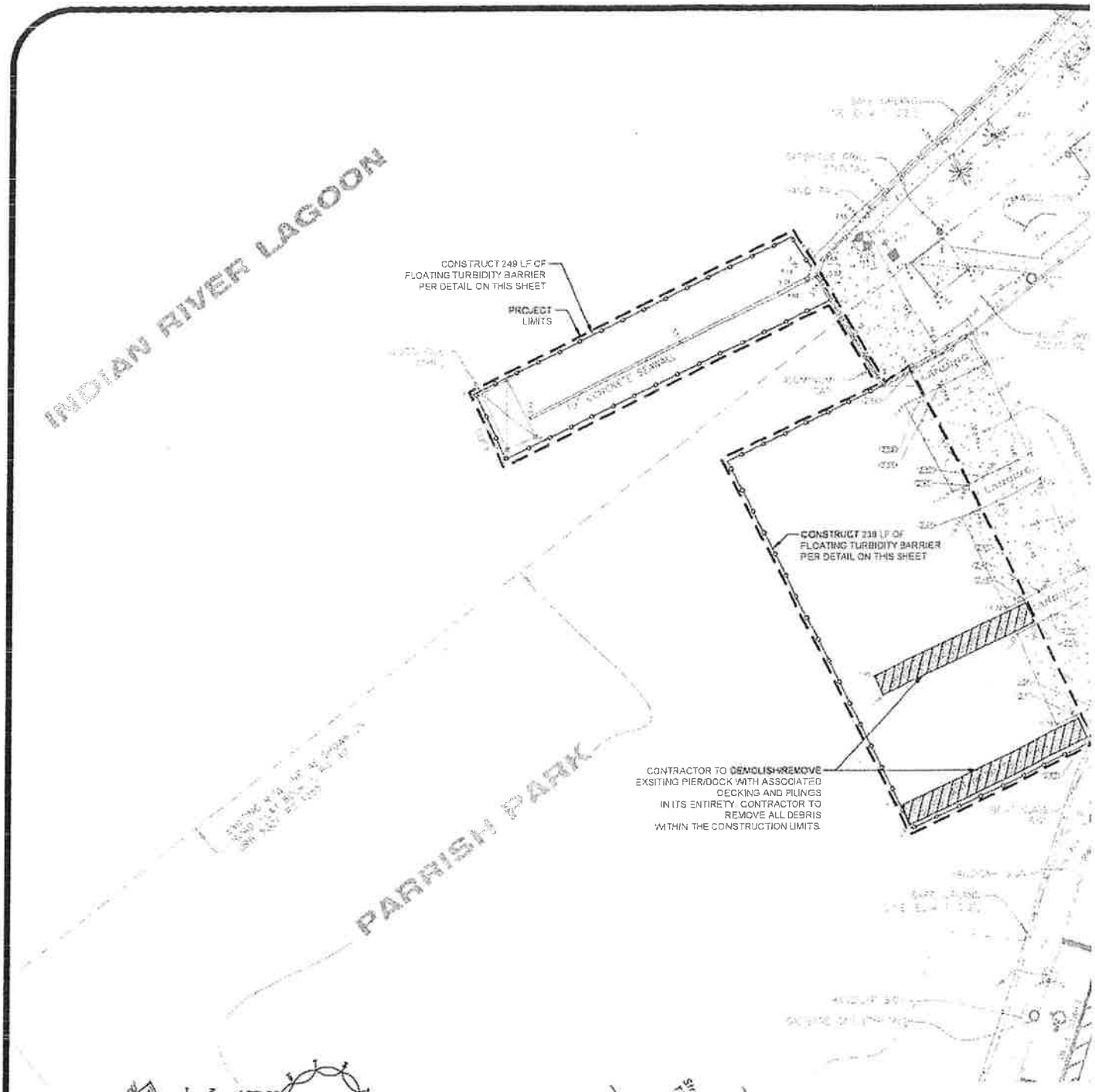

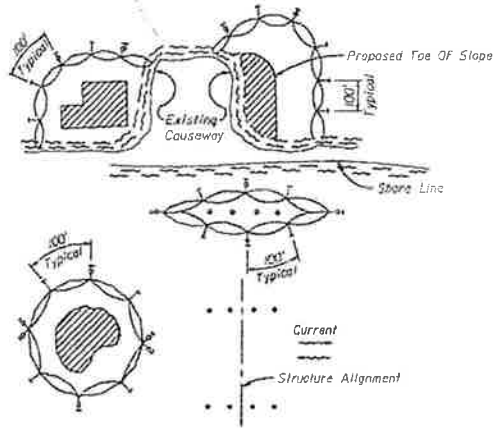

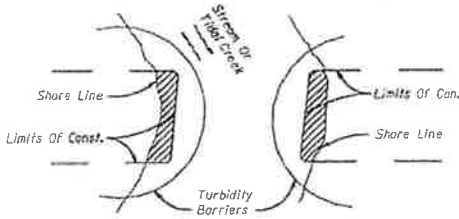

Note:
Turbidity barriers for flowing streams and tidal creeks may be either floating, or staked types or any combinations of types that will suit site conditions and meet erosion control and water quality requirements. The barrier type(s) will be at the Contractors option unless otherwise specified in the plans. Posts in staked turbidity barriers to be installed in vertical position unless otherwise directed by the Engineer.

NOTES:

1. *Turbidity barriers are to be used in all permanent bodies of water regardless of water depth.*
2. *Number and spacing of anchors dependent on current velocities.*
3. *Deployment of barrier around pile locations may vary to accommodate construction operations.*
4. *Navigation may require segmenting barrier during construction operations.*
5. *For additional information see Section 104 of the Standard Specifications.*

LEGEND

- *Pile Locations*
- *Dredge Or Fill Area*
- *Mooring Buoy w/Anchor*
- *Anchor*
- *Barrier Movement Due To Current Action*

TURBIDITY BARRIER DETAILS

NTS

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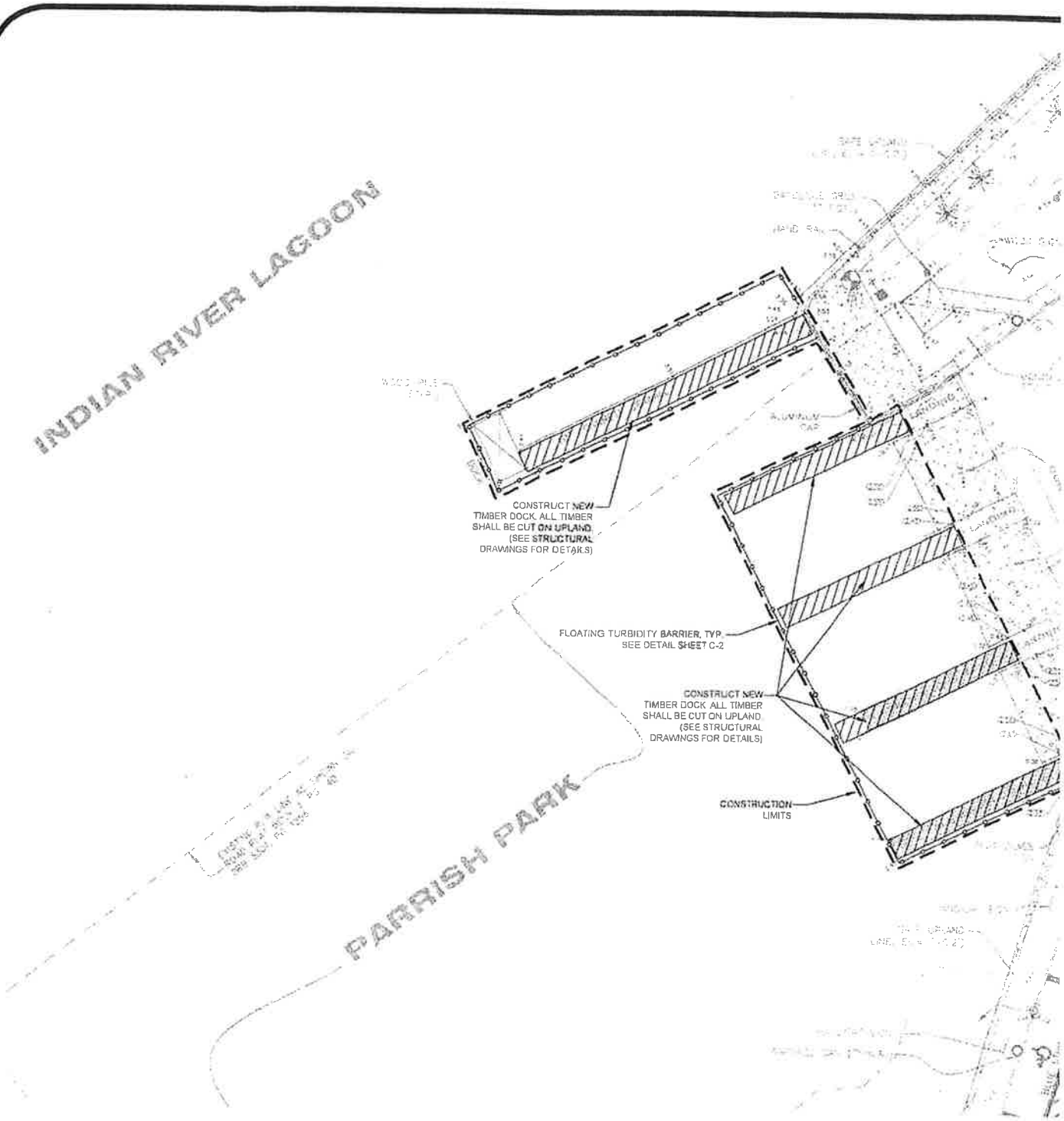

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STRUCTURAL NOTES

DESIGN CRITERIA

D-1 CODES: - FLORIDA BUILDING CODE 6TH EDITION 2017
- ASCE 7-16 "MINIMUM DESIGN LOADS FOR BUILDINGS AND OTHER STRUCTURES"

D-2 DESIGN DEAD LOADS:
DECK 10 PSF

DESIGN LIVE LOADS:
DECK 40 PSF

D-3 DESIGN WIND SPEED: Vult = 160 MPH (3 SECOND GUST) PER FIGURE 1609A
Vasd = 124 MPH PER SECTION 1609.3.1
RISK CATEGORY II PER TABLE 1604.5
SURFACE ROUGHNESS: D PER SECTION 1609.4
WIND EXPOSURE CATEGORY: D PER SECTION 1609.4
MEAN ROOF HEIGHT: 1600 FT
ENCLOSED BUILDING INTERNAL PRESSURE COEFFICIENT
GCpi = +/- 0.00 (OPEN STRUCTURE)

D-4 SEISMIC: ZONE D

D-5 ASSUMED ALLOWABLE BEARING CAPACITY OF 1000 PSF. IF SITE CONDITIONS DO NOT ALLOW FOR ASSUMED ALLOWABLE BEARING CAPACITY CONTACT ENGINEER.

GENERAL NOTES

G-1 REVIEW ALL PROJECT DOCUMENTS PRIOR TO FABRICATION AND START OF CONSTRUCTION. REPORT ANY DISCREPANCIES TO ARCHITECT OR STRUCTURAL ENGINEER PRIOR TO PROCEEDING WITH WORK.

G-3 IT IS THE CONTRACTOR'S RESPONSIBILITY TO PROTECT EXISTING FACILITIES, STRUCTURES AND UTILITY LINES FROM ALL DAMAGE DURING CONSTRUCTION

G-4 NO STRUCTURAL MEMBER SHALL BE CUT, NOTCHED OR OTHERWISE REDUCED IN SIZE OR STRENGTH WITHOUT PRIOR APPROVAL IN WRITING FROM THE STRUCTURAL ENGINEER.

G-5 COORDINATE STRUCTURAL AND OTHER DRAWINGS THAT ARE PART OF THE CONTRACT DOCUMENTS FOR ANCHORED, EMBEDDED OR SUPPORTED ITEMS WHICH MAY AFFECT THE STRUCTURAL DRAWINGS (IE MECHANICAL, ELECTRICAL, PLUMBING, DUCTWORK, ETC.)

G-6 ALL DETAILS AND SECTIONS ON THE DRAWINGS ARE INTENDED TO BE TYPICAL AND SHALL BE CONSTRUED TO APPLY TO ANY SIMILAR SITUATION ELSEWHERE ON THE PROJECT EXCEPT WHERE A SEPARATE DETAIL IS SHOWN.

G-7 THE INTENTION OF THE PLANS AND SPECIFICATIONS IS TO PROVIDE ALL NECESSARY DETAILS TO CONSTRUCT A COMPLETE STRUCTURE WHEN SPECIFIC INFORMATION IS MISSING OR IS IN CONFLICT, THE CONFLICTS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ENGINEER.

G-8 THE ENGINEER SHALL NOT BE RESPONSIBLE FOR LAYOUT, DIMENSIONAL ERRORS OR DISCREPANCIES RESULTING FROM THE REPRODUCTION AND USE OF CONTRACT DRAWINGS FOR ERECTION AND SHOP DRAWINGS. USE OF CONTRACT DRAWINGS REPRODUCED IN WHOLE OR ANY PART IN SHOP DRAWINGS SHALL NOT RELIEVE THE CONTRACTOR NOR SUBCONTRACTORS FROM THEIR RESPONSIBILITY TO ACCURATELY LAYOUT, COORDINATE, DETAIL, FABRICATE AND INSTALL A COMPLETE STRUCTURE

WOOD

WD-1 ALL WOOD CONSTRUCTION AND CONNECTIONS SHALL CONFORM TO AITC "AMERICAN INSTITUTE OF TIMBER CONSTRUCTION" MANUAL, EDITION, AND THE "NATIONAL DESIGN SPECIFICATIONS" FOR WOOD CONSTRUCTION, LATEST EDITION, AND FLORIDA BUILDING CODE, CHAPTER 23.

WD-2 ALL WOOD IN CONTACT WITH CONCRETE OR MASONRY OR EXPOSED TO WEATHER SHALL BE PRESSURE TREATED, UNLESS NOTED OTHERWISE

WD-3 DIMENSIONED LUMBER SHALL BE DRESSED S4S, AND SHALL BEAR THE GRADE STAMP OF THE MANUFACTURER'S ASSOCIATION.

WD-4 ALL LUMBER SHALL BE SOUND, SEASONED, AND FREE FROM WARP.

WD-5 ALL CONNECTION HARDWARE IN CONTACT WITH PRESSURE TREATED WOOD SHALL BE STAINLESS STEEL SUPPLIED BY SIMPSON STRONG-TIE CO. INC. OR USP LUMBER CONNECTORS BY APPROVED EQUIVALENT MANUFACTURER. USE EQUIVALENT MATERIALS FOR NAILS AND SCREWS AS FASTENER.

WD-6 ALL LUMBER SHALL BE PRESSURE TREATED SOUTHERN PINE NO. 2 GRADE OR BETTER WITH 19% MAXIMUM MOISTURE CONTENT, UNLESS NOTED OTHERWISE ON PLAN.

WD-7 ALL LUMBER SHALL BE TREATED AS FOLLOWS:
PILING SHALL BE .15 CCA TREATED
STRINGERS AND COLLARS SHALL BE .06 CCA TREATED
DECK AND RAILING SHALL BE .04 ACQ TREATED

DRILL-IN BOLTS, HEADED STUDS, SCREWS AND DOWELS

DI-1 WEDGE BOLTS SHALL BE ITW RAMSET/REDHEAD BOLTS OR APPROVED EQUIVALENT INSTALLED IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS DO NOT CUT EXISTING REINFORCING TO INSTALL.

DI-2 MASONRY AND CONCRETE SCREWS SHALL BE MANUFACTURED BY RAMSET/REDHEAD "TAPCONS" OR APPROVED EQUAL INSTALLED IN ACCORDANCE WITH MANUFACTURERS' RECOMMENDATIONS.

DI-3 ANCHORING ADHESIVE SHALL BE A TWO-COMPONENT SOLID EPOXY-BASED DISPENSED THROUGH A STATIC-MIXING NOZZLE SUPPLIED BY THE MANUFACTURER. SYSTEM SUPPLIED IN MANUFACTURER'S STANDARD SIDE-BY-SIDE CARTRIDGE AND EPOXY SHALL MEET THE MINIMUM REQUIREMENTS OF ASTM C-881 SPECIFICATION FOR TYPE I, II, IV AND V, GRADE 3, CLASS B AND C AND MUST DEVELOP A MINIMUM 2500 PSI COMPRESSIVE YIELD STRENGTH AFTER 7-DAY CURE

DI-4 GROUTED ANCHORS SHALL BE SIMPSON EPOXY-TIE ADHESIVE SYSTEM OR APPROVED EQUIVALENT INSTALLED IN ACCORDANCE WITH MANUFACTURERS' RECOMMENDATIONS.

DI-5 DRILL-IN REBAR DOWELS AND THREADED ROD ANCHORS (A307) SHALL BE SET USING A TWO-PART EPOXY AS DESCRIBED ABOVE.

DI-6 HEADED STUDS (HS) SHALL BE "NELSON" OR APPROVED EQUAL. INSTALL USING MANUFACTURER'S SPECIFICATIONS AND IN ACCORDANCE WITH AWS D1.1 ATTACHMENT OF STUDS SHALL BE SUFFICIENT TO DEVELOP THE FULL CAPACITY OF EACH INDIVIDUAL STUD (PER AWS D1.1).

DI-7 EXPANSION ANCHORS MAY BE SUBSTITUTED FOR ANCHOR BOLTS ONLY WITH THE APPROVAL OF THE ENGINEER OF RECORD IN WRITING. EXPANSION ANCHORS USED SHALL BE HILTI, SIMPSON, RAWL, OR APPROVED EQUAL.

DI-8 ALL FASTENERS SHALL BE STAINLESS STEEL.

REINFORCED CONCRETE

RC-1 ALL CONCRETE DESIGN AND PLACEMENT SHALL BE IN STRICT ACCORDANCE WITH THE ACI "BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE," ACI 318-08.

RC-2 STRUCTURAL CONCRETE SHALL CONFORM TO ACI 301 SPECIFICATIONS AND SHALL DEVELOP THE FOLLOWING MINIMUM COMPRESSIVE STRENGTH AT 28 DAYS:

SEAWALL CAP	5000 PSI
DEADMAN ANCHORS	5000 PSI

RC-3 MAXIMUM WATER TO CEMENT RATIO WHEN NO BACK-UP DATA IS AVAILABLE:
@ 5000 PSI, 28 DAY COMPRESSIVE STRENGTH: W/C RATIO 0.48 MAXIMUM (NON-AIR ENTRAINED), 0.41 MAXIMUM (AIR ENTRAINED)

RC-4 FLY ASH, WHEN USED, SHALL BE LIMITED TO 10% OF THE CEMENTITIOUS MATERIAL. DO NOT USE FOR EXPOSED SLABS

RC-5 ALL REINFORCEMENT SHALL BE FASTENED AND SECURED TOGETHER TO PREVENT DISPLACEMENT BY CONSTRUCTION LOADS OR THE PLACING OF CONCRETE

RC-6 ALL REINFORCING STEEL SHALL BE DETAILED, FABRICATED AND INSTALLED IN ACCORDANCE WITH ACI 318 AND ACI DETAILING MANUAL, ACI-315 LATEST EDITION.

RC-7 REINFORCEMENT WITH RUST, MILL SCALE OR A COMBINATION OF BOTH SHALL BE CONSIDERED SATISFACTORY, PROVIDED THE MINIMUM DIMENSIONS (INCLUDING HEIGHT OF DEFORMATIONS) AND WEIGHT OF A HAND-WIRE-BRUSHED TEST SPECIMEN ARE NOT LESS THAN APPLICABLE SPECIFICATION REQUIREMENTS IN THE ASTM STANDARDS REFERENCE IN ACI 318. REINFORCING BARS SHALL CONFORM TO ASTM A-615, GRADE 60, LATEST REVISION, WITH SUPPLEMENT (S1) MARKED "S".

RC-8 TERMINATE ALL DISCONTINUOUS TOP BARS WITH STANDARD 90 DEGREE HOOK (PLACED VERTICALLY) UNLESS NOTED OTHERWISE.

RC-9 PROVIDE CONCRETE COVER OVER REINFORCEMENT AS FOLLOWS, UNLESS OTHERWISE NOTED:

MINIMUM COVER:	LOCATION AND CONDITION:
A. CONCRETE CAST AGAINST AND PERMANENTLY EXPOSED TO EARTH	ALL BARS 3"
B. CONCRETE EXPOSED TO EARTH OR WEATHER	#6 OR GREATER 2"
	#5 OR SMALLER 1-1/2"
	#11 OR SMALLER 3/4"

RC-10 THE GENERAL CONTRACTOR IS RESPONSIBLE FOR FOR PROVIDING THE CONSTRUCTION OF ALL FORMWORK IN ACCORDANCE WITH ACI 347

VINYL SHEET PILING

VSP-1 VINYL SHEET PILING SHALL BE MANUFACTURED ENTIRELY FROM RIGID, IMPACT MODIFIED, UV-INHIBITED, WEATHERABLE VINYL THAT MEETS THE CHARACTERISTICS OF SHOREGUARD 350 VINYL SHEET PILING.

VSP-2 ALL VINYL SHEET PILING SHALL BE SHOREGUARD FLAT PANEL OR APPROVED EQUAL. THE TERM EQUAL SHALL BE DEFINED AS MEETING OR EXCEEDING WHOLLY AND COMPLETELY ALL PROPERTIES DEFINING SHEET PILING PERFORMANCE.

VSP-3 ALL SHEET PILING SURFACES THAT MAY IN ANY WAY BE EXPOSED TO OUTDOOR ELEMENTS SUCH AS ULTRAVIOLET LIGHT AND/OR RAIN, OR EXPOSED TO CHEMICAL ATTACK MUST BE COMPLETELY COMPOSED OF VIRGIN MATERIAL

VSP-4 THE SHEET PILING MATERIAL MUST MEET A CELL CLASSIFICATION OF 1-41444-33-6161 AS DEFINED BY ASTM D4216.

VSP-5 THE CONTRACTOR SHALL BE RESPONSIBLE FOR SELECTION OF METHODS AND PROCEDURES FOR INSTALLATION OF SHEET PILING, AND FOR THE DESIGN OF TEMPLATES AND BRACING, THAT WILL ADVANCE THE PILING WITHIN THE TOLERANCES REQUIRED BY THESE SPECIFICATIONS. THE METHODS, PROCEDURES, AND BRACING SHALL BE SUBJECT TO REVIEW AND APPROVAL BY THE ENGINEER AND SHALL BE CONSISTENT WITH THE REQUIREMENTS SET OUT IN THESE SPECIFICATIONS. ALL PILING SHALL BE KEPT UNDER CLOSE OBSERVATION DURING INSTALLATION IN ORDER THAT DRIFT OR OTHER TENDENCY TOWARD MISALIGNMENT MAY BE DETECTED AND CORRECTIONS MADE BEFORE MISALIGNMENT BECOMES SERIOUS. WHEN MISALIGNMENTS OCCUR, THE ENGINEER MAY ORDER THE CONTRACTOR TO MODIFY HIS METHODS AND RIGGING.

VSP-6 TEMPLATES AND GUIDES SHALL BE USED DURING INSTALLATION ALL VINYL SHEET PILING. THE DESIGN, ARRANGEMENT, AND ANCHORING OF TEMPLATES AND GUIDES SHALL BE ADEQUATE TO INSURE THAT THE PILING WILL BE DRIVEN TO THE PROPER LOCATION, AND AS OTHERWISE REQUIRED BY THESE SPECIFICATIONS.

VSP-7 TIE RODS FOR THE EXISTING SEAWALL SHALL BE 3/4" DIA. HOT DIPPED GALVANIZED THREADED ROD. FIELD APPLIED COATING SHALL BE 88PC PAINT 16 COAL TAR EPOXY, APPLY TWO COATS OF COAL TAR EPOXY, EACH HAVING A MINIMUM OF 8 MILS OF DRY FILM THICKNESS. TOTAL DRY FILM THICKNESS SHALL BE A MINIMUM OF 16 MILS APPLIED IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS.

VSP-8 TIE RODS SHALL BE HOT DIPPED GALVANIZED UNLESS OTHERWISE NOTED.

VSP-9 STRUCTURAL STEEL USED FOR PLATES AND ANGLES FOR FABRICATED CONNECTIONS SHALL CONFORM TO THE PROVISIONS OF TENTATIVE SPECIFICATIONS FOR STRUCTURAL STEEL, ASTM DESIGNATION: A 36 AND BE HOT DIPPED GALVANIZED.

VSP-10 ALL SHOP AND FIELD WELDING SHALL BE DONE BY CURRENTLY CERTIFIED WELDERS IN ACCORDANCE WITH AWS D1.1 "STRUCTURAL WELDING CODE," LATEST EDITION.

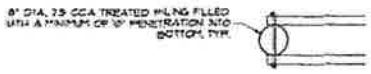
VSP-11 USE E70XX ELECTRODES FOR ALL WELDING UNLESS NOTED OTHERWISE. GRIND SMOOTH ALL EXPOSED WELDS.

VSP-12 ALL CONCRETE AND REINFORCING STEEL USED IN CONSTRUCTION OF THE PILECAP AND DEADMAN SHALL BE AS SPECIFIED IN THE SECTION "CONCRETE"

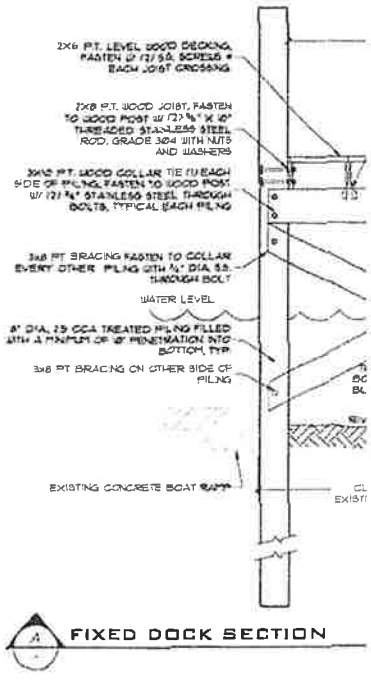
PROPOSED DOCK A

PARRISH

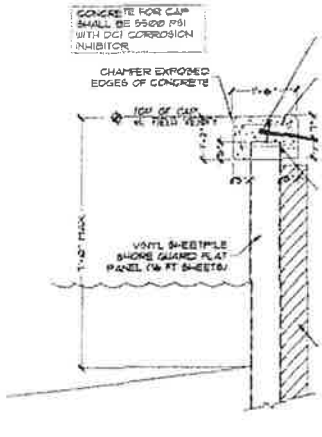
TITUSVILLE,



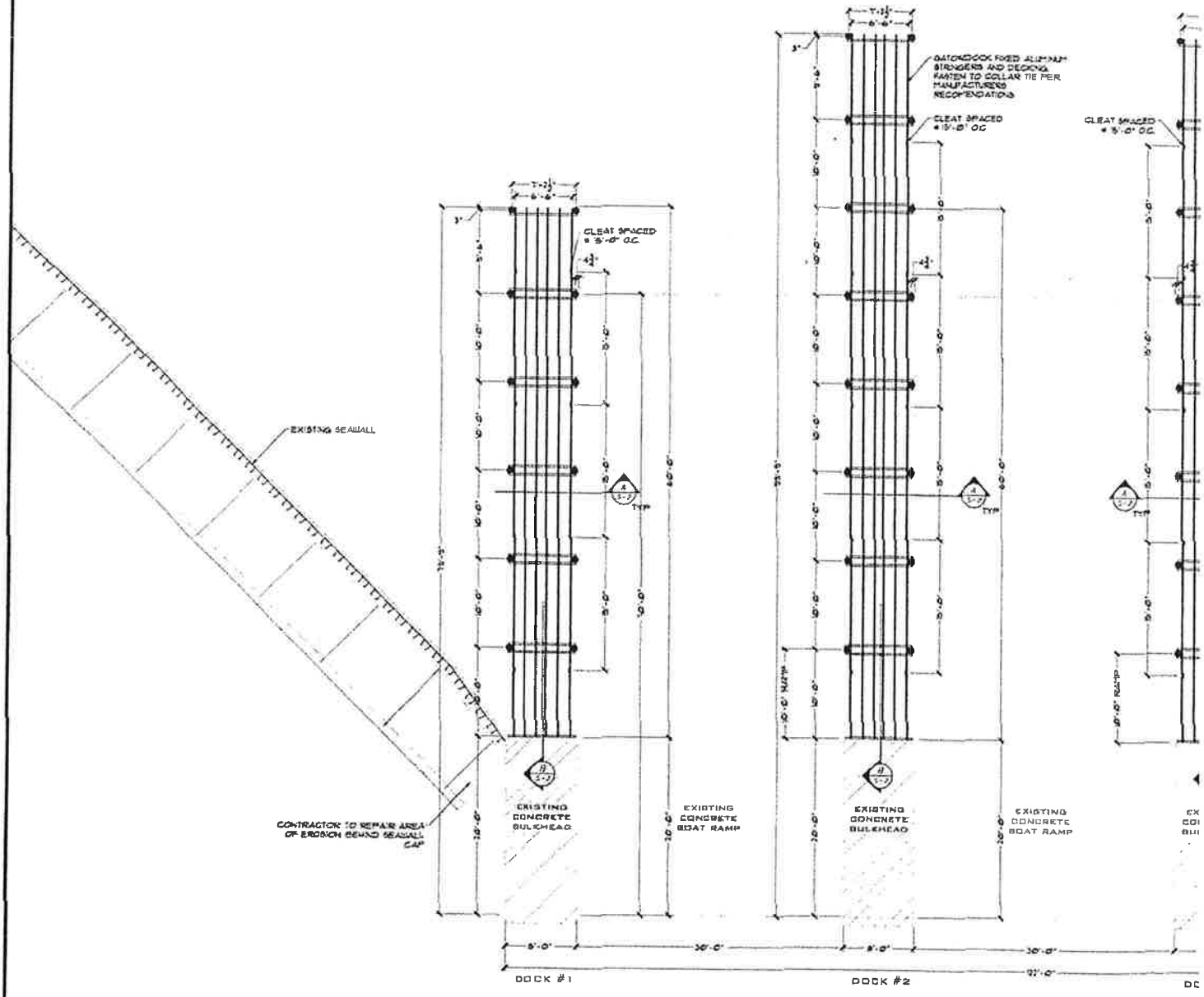
PART



A FIXED DOCK SECTION

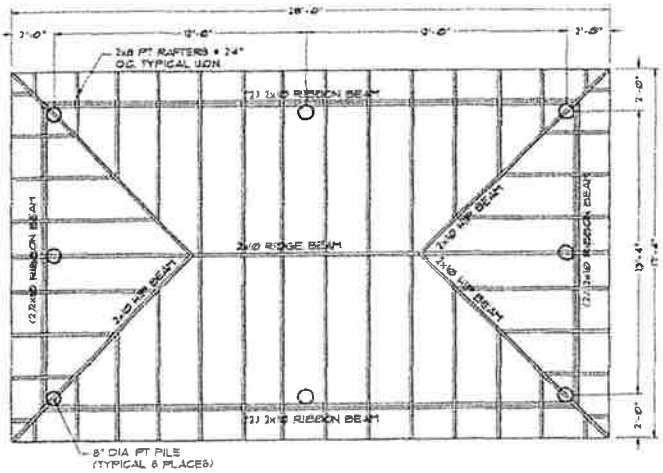


C TYPICAL DEADMAN ANCH



DOCK FRAMING PLAN

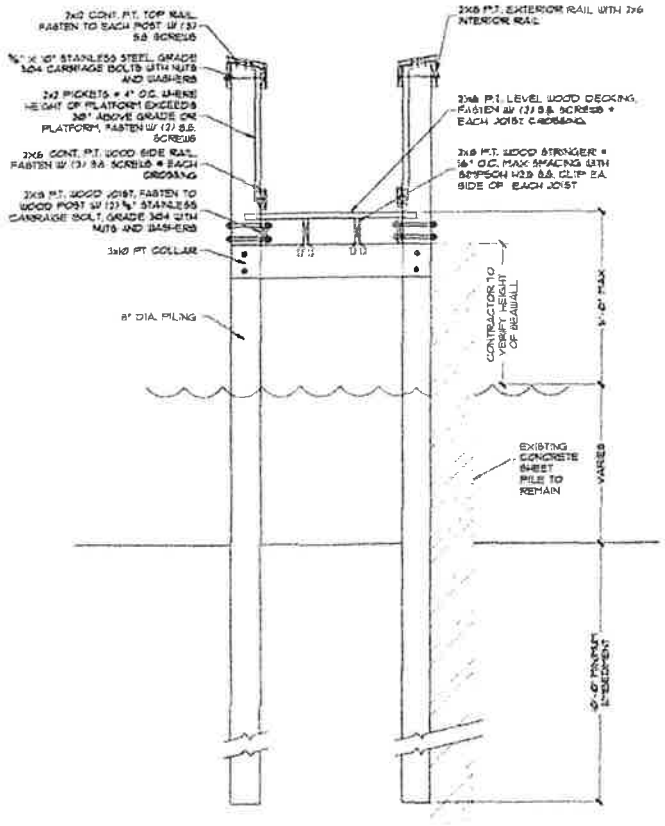
SCALE: 1/



ROOF FRAMING PLAN

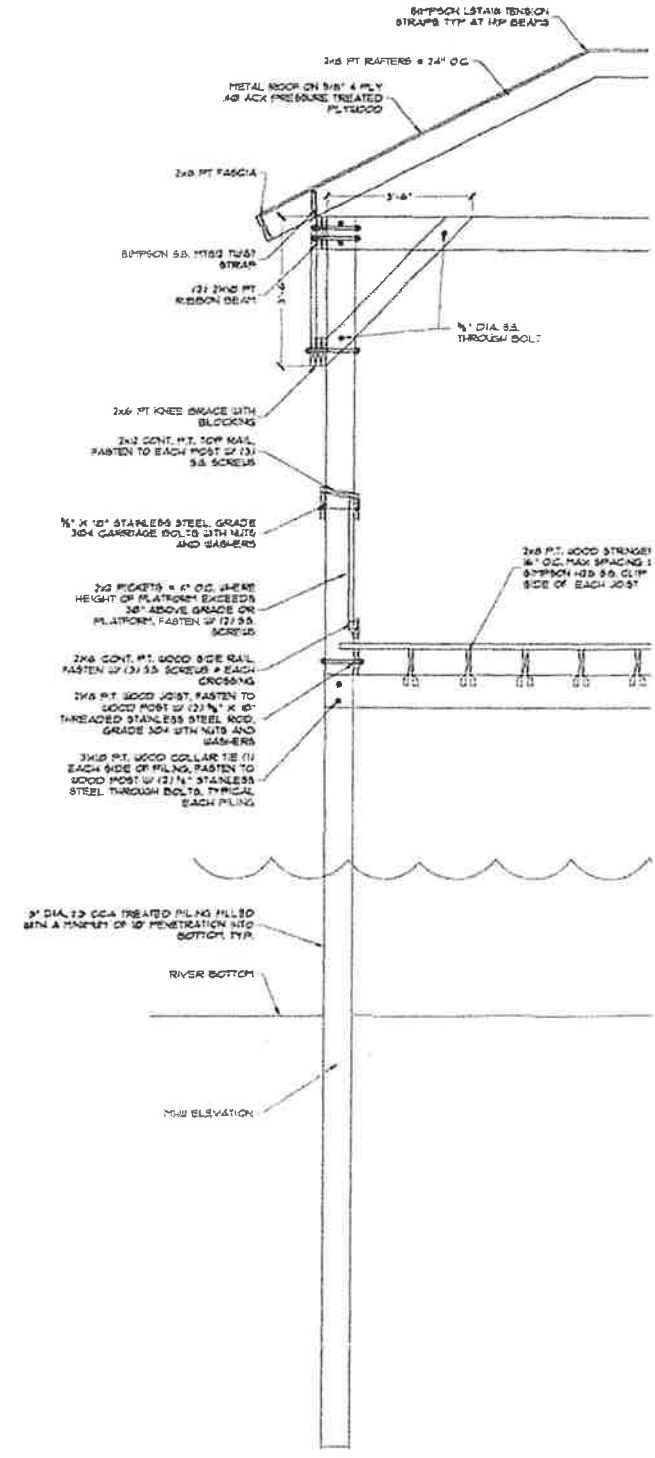
SCALE: 1/4"=1'-0"

ROOF PLAN CONNECTOR SCHEDULE	
CONNECTION TYPE	FASTENERS REQUIRED
2x8 RAFTERS TO 2x10 HIP BEAM	SIMPSON A34 S.S. CLIP
2x8 RAFTERS TO (2)2x10 BEAM	SIMPSON S.S. MT66Z TWIST STRAP NAIL PER SIMPSON
(2) 2x10 BEAM TO PILING	(2) ⅝" S.S. THROUGH BOLTS
2x10 HIP BEAM AT ALL RIDGE	SIMPSON HCP18I CONNECTOR W/ (6) 10D NAILS IN RAFTER AND BEAMS
NOTE: ALL CONNECTORS ARE MANUFACTURED BY SIMPSON STRONG TIE OR APPROVED EQUAL UNLESS NOTED OTHERWISE	



A TYPICAL PIER SECTION

SCALE 1/2"=1'-0"



B TYPICAL DOCK SECTION

ATTACHMENT "E"

CONSTRUCTION MANAGER'S
PRELIMINARY CONSTRUCTION SCHEDULE

attached

Attachment "E"

INC
ement

Start
Finish

Duration: Days 120
Weeks 18
Months 5.00

Addendum

SCRIPTION												BASE BID TOTAL
	Duration	Unit	Unit Rate	Labor	Material	Equipment	Other					
	20	hrs	83.00	1,660								
ANAGER	96	hrs	80.00	7,680								
	14	week	2,800.00	39,200								
	IN FEE	week										
nit)	IN FEE	hrs										
	1	lpsm	750.00	750								
	1	lpsm	1,500.00	1,500								
	1	lpsm	250.00		250							
	0	month	80.00									
ll time)	0	month	500									
CLE (1/4 time on-site)	0	month	125									
	0	month	50									
	0	month	50									
				50,790	250	-	-					$ 51,040
	Duration	Unit	Unit Rate	Labor	Material	Equipment	Other					
	1	lpsm	see below				see below					
	4	month	250	1,000								
	4	month	110			440						
	400	lnft	5.00				2,000					
		month	300									
		lpsm	550									
	4	month	145				580					
		month	125									
	3	pulls	500			1,500						
		month	150									
SUPPLIES	1	lpsm	200		200							
		month	100									
	80	hrs	25	2,000								
	1	lpsm	1,000	1,000								
	1	lpsm	1,000	1,000								
				5,000	200	1,940	2,580					$ 9,720

TRADE PRICING

ESCRIPTION	CCCI	SUBS	SUBS	SUBS	SUBS	SUBS	SUBS	SUBS	SUBS	SUBS	SUBS	
	CCCI											
	3,500											$ 3,500
							0	0	0	0		
	1,000											
	1,500											
	1,000											
	CCCI	SFI	FENDER	BCI	SK	Shoreline						
				311,850								$ 311,850
		714,830	393,000	311,850	593,500	256,869						
pe of work.		Y	Y	Y	Y	N						
Timber, Aluminum Docks and Roof		Y	Y	Y	Y	Y						
		?	Y	Y	?	?						
imber Piles (Approx. 86 EA)		Y	Y	Y	Y	Y						
es (Approx. 86 EA)		Y	Y	Y	Y	Y						
ks (Approx. 290 LF)		Y	Y	Y	Y	Y						
86 LF)		Y	Y	Y	Y	Y						
with Kynar Painted Aluminum Roof. (Approx.		?	Y	Y	?	?						
t for fixed dock sections.		?	Y	Y	?	?						
Sheet Pile wall (Approx. 480 SF)		Y	Y	Y	Y	?						
prox. 30 LF) with Tiebacks (Approx. 4 EA) to xisting wall.		Y	Y	Y	Y	?						
ks. cap and slab.		?	Y	Y	Y	?						
		Y	N	Y	Y	?						
0 SF) at Tiebacks		Y	Y	Y	Y	?						
6 Stainless Steel		?	N	Y	?	?						
or Turbidity Barriers (Approx. 490 LF)		?	?	Y	Y	?						
				14 Weeks								
									SUB-TOTAL			$ 376,110
GENERAL LIABILITY	0.525%								GENERAL LIABILITY			1,975
BUILDERS RISK	0.35%								BUILDERS RISK			1,316
SUBTOTAL										*SUB-TOTAL*		$ 379,401
PROFIT	15%								OH & PROFIT			56,910
SUBTOTAL										*SUB-TOTAL*		$ 436,311
CONTINGENCY	5%								CONTINGENCY			21,816
BOND	1.05%								BOND			4,581
BID ITEM TOTAL									BID TOTAL			$ 462,708

ATTACHMENT "F"

ORDINANCE 98-37

AN ORDINANCE AMENDING CHAPTER 2 OF THE BREVARD COUNTY CODE TO CREATE ARTICLE VII, A PROCEDURE FOR PREQUALIFYING CONSTRUCTION CONTRACTORS, FOR COMPETITIVE BIDDING CRITERIA AND FOR DEBARMENT OF CONSTRUCTION CONTRACTORS AND SURETIES; PROVIDING FOR ALTERNATIVE CONSTRUCTION DELIVERY METHODS; PROVIDING FOR PREQUALIFICATION AND COMPETITIVE BIDDING CRITERIA, PROCEDURE, AND FOR A STANDARD OF PROOF; PROVIDING FOR EDITING OF THE ORDINANCE FOR INCLUSION WITHIN THE BREVARD COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 255.20, Fla. Stat. (1997) requires that standards and procedures for determining the lowest qualified and responsive bidder or award of a construction contract under any delivery method be established if a bidder is selected for any reason other than price; and

WHEREAS, the Board has determined that it is in the public's best interest to provide such standards and procedures so that the Board may select the most qualified and responsive bidder; and

WHEREAS, the Board has determined that it is in the public's best interest to prevent construction firms and sureties who have defaulted on a previous contract with the County from future bidding on County projects through a debarment procedure;

THEREFORE, be it ordained by the Board of County Commissioners of Brevard County, Florida as follows:

Section 1: Chapter 2 of the Brevard County Code shall be amended to create Article VII as follows:

1. DEFINITIONS: The following words shall have these meanings throughout this article:

"AFFECTED PARTY" means an individual or business which has submitted a bid, offer, proposal, quotation, or response which is rejected, or is found unqualified under the provisions of this article, or which would be selected if a low bidder was found unqualified or nonresponsive.

"BOARD" means the Board of County Commissioners of Brevard County, Florida.

"COMMITTEE" means two or more persons designated to evaluate prequalification and responsiveness criteria. Committees established by the County Manager may be intradepartmental, or include representatives of several departments interested in the administration and success of the construction project.

"DEBARMENT" means the exclusion for cause of a vendor or contractor, or subcontractor from bidding or doing business with the County on a temporary or permanent basis.

"MINOR IRREGULARITY" means a variation from the Invitation to Bid which does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders, or does not adversely impact the interests of the agency.

"QUALIFIED BIDDER" means an individual or business which has submitted a bid, offer, proposal, quotation, or response, which has the capability in all respects to fully perform the contract requirements, and has the financial stability, honesty, integrity, skill, business judgement, experience, facilities and reliability necessary to give reasonable assurance of good faith and performance.

"REQUEST FOR QUALIFICATION" ("RFQ") means the process by which the County may prequalify individuals or businesses for a particular project before requesting bids for the project, thereby limiting the pool of bidders to these prequalified.

"RESPONSIVE BIDDER" means an individual or business which has submitted a bid, offer, proposal, quotation, or response, which conforms in all material respects to the solicitation, including but not limited to compliance with the submittal of specified insurance and bond requirements.

1. Any County contract for the construction or improvement of a public building, structure, or other public construction work that is estimated in accordance with general accounting principles to have construction costs of more than fifty thousand dollars ($50,000.00) shall be competitively awarded to the lowest, qualified and responsive bidder in accordance with this article, unless the project (1) fits within exceptions set forth in s. 255.20, Fla. Stat., as amended from time to time, (2) is a contract governed by the Consultant's Competitive Negotiation Act, or (3) is awarded under another contract delivery method authorized by this article. Nothing in this article shall be construed to require competitive award of every County construction work, nor to prohibit the Board from rejecting all bids if competitively bid, or to prevent the Board from waiving minor irregularities in any bid.

2. (a) Potential lump sum bidders responding to a request for qualifications are required to submit information required by this article and as identified in the RFQ

package. A committee identified in the RFQ package will determine whether a potential bidder is qualified and responsive as defined in this article.

(b) For projects advertised for lump sum bid without prior prequalification, the apparent low bidder, after the formal bid opening, will be required to submit the following prequalification information identified in the bid package within five (5) business days after the bid opening. Failure to provide prequalification information within this time frame may be considered as grounds for finding the apparent low bidder nonresponsive. If the apparent low bidder cannot provide adequate documents for review, or the submitted documents indicate the apparent low bidder or any subcontractors are not qualified, or if the bidder's package is determined to be nonresponsive, the Committee will reject the bidder or any of its subcontractors. In the event the bidder is found unqualified or non-responsive, the apparent second low bidder will be contacted and afforded the previous mentioned five (5) days to submit pre-qualification documents. This process will continue until the lowest qualified and responsive bidder is established. In the event that a subcontractor is found unqualified or non-responsive, the potential bidder or prime contractor will have five (5) business days to submit a substitute subcontractor for the same bid price or withdraw the original bid.

(c) In addition to lump sum contracts for construction, the Board may use the following delivery methods for construction or improvement of a public building, structure, or other public construction work: construction manager, design/build, or continuing contracts based on unit prices. The Board may also enter into continuing contracts with construction managers using the pre-qualification procedure set forth herein for potential lump sum bidders. The individual projects shall be awarded under a continuing contract using the following criteria:

> Ability of professional personnel given project's special characteristics; past performance; willingness to meet time and budget requirements; location; recent, current and projected workloads of the firms available under continuing contract; volume of work previously awarded to each firm under a continuing contract provided distribution does not violate the principle of selection of the most qualified firm for the project; previous experience on County projects.

The County Manager will establish procedures for the Board to hear any affected party with a complaint or appeal as to any recommendation or finding made pursuant to this article. Any affected party's complaint or appeal must be presented, in writing, to the County Manager's office within five (5) business days of the posting of a committee's decision.

(d) At the completion of each competitively awarded County construction project, the County department which administered the construction contract shall

complete an evaluation of the contractor's performance on a form to be established by the County Manager. The department may also complete evaluations of critical subcontractors using the same form. All such records shall be copied to the party evaluated and maintained by County Purchasing. Any party evaluated may submit a written response of any length, which response shall be filed with the evaluation.

3. Potential bidders, the apparent lowest bidder, or the person providing services under any other contract delivery method, and applicable subcontractors identified in the bid or request for qualification package for any County construction project which is to be competitively awarded shall be evaluated to determine whether the bidder and its subcontractors are qualified. In evaluating qualifications, the County shall consider the following information:

   - A Contractor's Pre-Qualification Statement for the prime contractor and subcontractors performing parts of work identified in the bidding documents as critical to the project's success. The Pre-Qualification Statement shall be provided on a form to be established by the County Manager;

   - Most current financial statement, but not more than one (1) year old, indication of bondability, or, if project is under $100,000, other evidence of financial capability as identified in the bid documents;

   - Resumes of Contractor and Subcontractor's key personnel, including project manager and superintendent levels, showing job history, education related to work to be performed and any license, training, and experience related to the work which that individual will perform;

   - List of subcontractors and suppliers, and items of work to be performed by the Contractor's own work force;

   - County evaluations of the performance on County projects;

   - References obtained from individuals or businesses with whom the contractor or subcontractor has performed work or conducted business;

   - Any other relevant qualifications, data or information identified in the bidding documents to be critical to the success of the project.

4. The County Manager will establish committees which may debar a contractor, contractor's key personnel, contractor's surety, subcontractor and subcontractor's key personnel, or any entity which key personnel are later employed or retained by in a supervisory position, from bidding on any County project under the circumstances enumerated below. The decision to disbar is

discretionary, the seriousness of the offense and all mitigating factors should be considered in making the decision to disbar. The notice of debarment shall state the time when such debarment will be lifted, if ever, and the contractor's right to appeal such debarment to the Board of County Commissioners under the Board's regular agenda. The Board reserves the power to waive or lift any committee imposed suspension or debarment.

An individual or business may be *permanently* debarred for any of the following reasons:

- Conviction or a judgment obtained in a court of competent jurisdiction for:
- Commission of a fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a pubic contract
- Violation of any Federal or State of Florida anti-trust or anti-racketeering statutes arising out of submission of bids or proposals;
- Commission of embezzlement, theft, forgery, bribery, falsification of or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a County contractor, subcontractor or vendor;
- If the conviction or judgment is reversed on appeal, the debarment shall be removed upon receipt of notification thereof.

Competent and substantial evidence of a violation of a County contract provision, as set forth below, when the violation is of a character so as to justify debarment action such as:

- Failure to perform in accordance with the specifications or delivery requirements in a contract;
- A history of failure to perform, or of unsatisfactory performance, in accordance with the terms of one or more contracts; provided, that such failure or unsatisfactory performance is within a reasonable period of time preceding the determination to debar. Failure to perform for unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered as a basis of debarment.

Upon adequate evidence, an individual or business may be *temporarily* debarred for a period up to three (3) years based upon substantial evidence of involvement in any of the causes cited in paragraph (b) above.

Section 2: Inclusion in Code: It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Brevard County Code; and that the sections of this ordinance may be renumbered or relettered to accomplish such intentions.

Section 3: Severability: If any provision of this ordinance is held to be illegal or invalid,

the other provisions shall remain in full force and effect.

Section 4: Effective Date: This ordinance shall become effective upon filing as provided by law. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment.

ATTACHMENT "G"

PUBLIC CONSTRUCTION PAYMENT BOND

BY THIS BOND, We _____ as Principal and _____, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called Owner, in the sum of _____ ($), for payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract dated _____, 20____, between Principal and Owner for construction of _____, the contract being attached hereto and made a part of this bond by reference, in such time and without delay, and in the manner prescribed in the contract; and
2. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract, then this bond is void; otherwise it remains in full force.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract does not affect Surety's obligation under this bond.

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

Witness:

_____

_____
Principal Seal

Its: _____
Title

Witness:

_____

_____
Surety Seal

Its: _____
Title

ATTACHMENT "H"

PUBLIC CONSTRUCTION PERFORMANCE BOND

BY THIS BOND, We _____, as Principal and _____, a corporation as Surety, are bound to Brevard County Board of County Commissioners, Brevard County, Florida, herein called Owner, in the sum of _____ ($_____), for payment of which we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Performs promptly, completely and faithfully the contract dated _____, 2010 between Principal and Owner for construction of _____, the contract being attached hereto and made a part of this bond by reference, in such time and without delay, and in the manner prescribed in the contract including the delivery, execution and performance of any warranty work required by the contract; and
2. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of default by Principal under the contract; and
3. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract does not affect Surety's obligation under this bond.

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

Witness:

_____

_____
Principal Seal

Its: _____
Title

Witness:

_____

_____
Surety Seal

Its: _____
Title

ATTACHMENT "I"

CONSTRUCTION MANAGER'S
GUARANTEED MAXIMUM PRICE

ATTACH HERE

Attachment "I"

Caracal
CONSTRUCTION CO., INC.

GMP PRICING SUMMARY

Parrish Park Dock Replacement 11/13/2018

Brevard County

	DESCRIPTION	Quan		Rate	BASE
DIV 1	GENERAL CONDITIONS				
	PROJECT EXECUTIVE	20	hrs	83.00	$ 1,660
	PROJECT QUALITY CONTROL MANAGER	96	hrs	80.00	$ 7,680
	SUPERINTENDENT	14	week	2,800.00	$ 39,200
	PROJECT ENGINEER (full time)	IN FEE	week	0.00	
	PROJECT ACCOUNTANT (1/4 time)	IN FEE	hrs	0.00	
	SUBMITTALS	1	lpsm	750.00	$ 750
	AS-BUILT DOCUMENTS	1	lpsm	1,500.00	$ 1,500
	DOCUMENT REPRODUCTION	1	lpsm	250.00	$ 250
	PHONES	0	month	80.00	$ -
	SUPERINTENDENT VEHICLE (full time)	0	month	500.00	$ -
	PROJECT MANAGEMENT VEHICLE (1/4 time on-site)	0	month	125.00	$ -
	POSTAGE/SHIPPING	0	month	50.00	$ -
	RAKEN DAILY LOG SERVICE	0	month	50.00	$ -
DIV 1	GENERAL REQUIREMENTS				
	CPM SCHEDULE	4	month	250	$ 1,000
	JOB SITE PHOTOS	4	month	110	$ 440
	TEMP FENCING	400	lnft	5	$ 2,000
	JOB TRAILER / SET UP (OTHER)	0	month	300	$ -
	JOB TRAILER RAMP/STAIRS	0	lpsm	550	$ -
	PORTOLET	4	month	145	$ 580
	CONNEX BOX (1 each)	0	month	125	$ -
	DUMPSTER PULLS/TRAILER	3	pulls	500	$ 1,500
	SMALL TOOLS	0	month	150	$ -
	SITE SAFETY / PPE / FIRST AID SUPPLIES	1	lpsm	200	$ 200
	ICE / WATER / CUPS	0	month	100	$ -
	DAILY CLEAN UP	80	hrs	25	$ 2,000
	FINAL CLEAN	1	lpsm	1,000	$ 1,000
	MATERIAL TESTING	1	lpsm	1,000	$ 1,000
DIV 1	GENERAL				$ 3,500
DIV 2	SITE WORK - MARINE				$ 311,850
					$ 376,110
	GENERAL LIABILITY				$ 1,975
	BUILDERS RISK				$ 1,316
	SUB-TOTAL				$ 379,401
	OVERHEAD & PROFIT				$ 56,910
	SUB-TOTAL				$ 436,311
	BOND				$ 4,581
	CONTINGENCY				$ 21,816
	PROJECT TOTAL				$ **462,708**

ATTACHMENT "J"

CERTIFICATE OF SUBSTANTIAL COMPLETION

(Insert Form Here)

ATTACHMENT "K"

CERTIFICATE OF FINAL COMPLETION

PROJECT NO. & TITLE:
ARCHITECT: CONTRACTOR:
CONTRACT DATE: DATE OF FINAL COMPLETION:

CERTIFICATE OF ARCHITECT/ENGINEER

Based on my inspections and investigation of the Contractor's work under the above referenced contract, I certify that the work, in general, has been completed in accordance with the contract documents, that all matters previously brought to the Contractor's attention as incomplete or defective have been resolved pursuant to my direction, and that the Contractor has submitted the attached sworn affidavit as evidence that the Contractor has paid all labor, materials, and other charges against the project in accordance with the terms of the Contract.

A/E Firm Name: _____ By: _____

TO BE COMPLETED BY ARCHITECT/ENGINEER: DATE: DAYS:

THROUGH THE SUBSTANTIAL COMPLETION PHASE

1. Notice to Proceed (N.T.P.)
2. Time Specified in Original Contract for Substantial Completion (S.C.)
3. Extension Granted By Change Orders (Days Between Original Contract S.C. and Final Contract S.C.)
4. Total Days Allowable to Substantial Completion (Add Lines 2 and 3)
5. Project Substantially Completed as Certified by A/E (Total Days from NTP through Date Certified by A/E)
6. Substantial Completion Overrun (Subtract Line 4 from 5 and Enter Overrun)

THROUGH THE FINAL COMPLETION PHASE

1. Time Specified in Contract, Between Substantial and Final Completion
2. Extensions Granted by Change Orders (Days Between S.C. and Final Completion)
3. Total Days Allowable Between Substantial Completion and Final Completion (Add Lines 1 and 2)
4. Date Actually Completed and Total Days Between and Date Certified by A/E as Actually being Finally Completed).
5. Final Completion Overrun (Subtract Line)

Architect: _____ Date: _____

Project Manager: _____ Date: _____

Facilities Construction Manager: _____ Date: _____

ATTACHMENT "L" (attached)

ALLOWABLE COSTS, OVERHEAD

DESCRIPTION	EST QUANTITY	UNITS	UNIT COST	BUDGET VALUE	QUANTITY TO DATE	QUANTITY TO COMP
OFFICE PHONES						
OFFICE SUPPLIES						
POSTAGE						
GAS/OIL/LUBRICATION						
AUTOMOBILES/TRUCKS						
PROJECT MANAGER						
ESTIMATING COSTS						
EXECUTIVE LABOR COST						
ASST PROJECT MANAGER						
IN HOUSE SECRETARY						
TRAVEL EXPENDITURES						
WARRANTY EXPENSE						

Attachment "L"

Canaveral Construction Co., Inc.

GMP PRICING SUMMARY

Parrish Park Dock Replacement — 11/13/2018

Brevard County

	DESCRIPTION	Quan		Rate	BASE
DIV 1	GENERAL CONDITIONS				
	PROJECT EXECUTIVE	20	hrs	83.00	$ 1,660
	PROJECT QUALITY CONTROL MANAGER	96	hrs	80.00	$ 7,680
	SUPERINTENDENT	14	week	2,800.00	$ 39,200
	PROJECT ENGINEER (full time)	IN FEE	week	0.00	
	PROJECT ACCOUNTANT (1/4 time)	IN FEE	hrs	0.00	
	SUBMITTALS	1	lpsm	750.00	$ 750
	AS-BUILT DOCUMENTS	1	lpsm	1,500.00	$ 1,500
	DOCUMENT REPRODUCTION	1	lpsm	250.00	$ 250
	PHONES	0	month	80.00	$ -
	SUPERINTENDENT VEHICLE (full time)	0	month	500.00	$ -
	PROJECT MANAGEMENT VEHICLE (1/4 time on-site)	0	month	125.00	$ -
	POSTAGE/SHIPPING	0	month	50.00	$ -
	RAKEN DAILY LOG SERVICE	0	month	50.00	$ -
DIV 1	GENERAL REQUIREMENTS				
	CPM SCHEDULE	4	month	250	$ 1,000
	JOB SITE PHOTOS	4	month	110	$ 440
	TEMP FENCING	400	lnft	5	$ 2,000
	JOB TRAILER / SET UP (OTHER)	0	month	300	$ -
	JOB TRAILER RAMP/STAIRS	0	lpsm	550	$ -
	PORTOLET	4	month	145	$ 580
	CONNEX BOX (1 each)	0	month	125	$ -
	DUMPSTER PULLS/TRAILER	3	pulls	500	$ 1,500
	SMALL TOOLS	0	month	150	$ -
	SITE SAFETY / PPE / FIRST AID SUPPLIES	1	lpsm	200	$ 200
	ICE / WATER / CUPS	0	month	100	$ -
	DAILY CLEAN UP	80	hrs	25	$ 2,000
	FINAL CLEAN	1	lpsm	1,000	$ 1,000
	MATERIAL TESTING	1	lpsm	1,000	$ 1,000
DIV 1	GENERAL				$ 3,500
DIV 2	SITE WORK - MARINE				$ 311,850
					$ 376,110
	GENERAL LIABILITY				$ 1,975
	BUILDERS RISK				$ 1,316
	SUB-TOTAL				$ 379,401
	OVERHEAD & PROFIT				$ 56,910
	SUB-TOTAL				$ 436,311
	BOND				$ 4,581
	CONTINGENCY				$ 21,816
	PROJECT TOTAL				**$ 462,708**

ATTACHMENT "M" (attached)
(Direct Cost Items)
GENERAL CONDITIONS

SUPERINTENDENT

JOB SITE SECRETARY/CLERK

QUALITY CONTROL

SURVEY

PERMITS

IMPACT/CONNECTION FEES

CONSTRUCTION DRAWINGS/SPECS

PROGRESS PHOTOGRAPHS *(IF REQUESTED BY THE OWNER)*

JOB SITE SIGN *(IF REQUESTED BY THE OWNER)*

SPECIAL SECURITY *(IF REQUESTED BY THE OWNER)*

PAYMENT & PERFORMANCE BONDS

BUILDERS RISK INSURANCE

JOBSITE TRAILER AND SUPPORT *(IF REQUESTED BY THE OWNER)*

TEMPORARY UTILITIES *(AS APPROVED BY THE OWNER)*

TEMPORARY JOBSITE FENCING *(INITIAL INSTALLATION ONLY)*

TRASH REMOVAL/DUMP FEES, AND RECYCLING *(AS APPROVED BY THE OWNER)*

Canaveral
CONSTRUCTION CO., INC.

Attachment "M"

November 13, 2018

Brevard County Parks and Recreation
2727 Judge Fran Jamieson Way
Building B, Suite 203
Viera, FL, 32940

Attention: Mary Ellen Donner

Reference: Construction Management –Parrish Park Dock Replacement

Subject: Guaranteed Maximum Price Proposal

Dear Ms. Donner,

Please find the attached Guaranteed Maximum Price - Construction proposal in the amount listed below for replacing the docks and related work at Parrish Park as per the plan set by Morgan & Associates, Consulting Engineers, dated 10 October 2018.

Scope of Services:

1) Demolish, remove and dispose of existing piles, docks, walkway and roof structure.
2) Furnish & Install new piles, docks, walkway & roof structure with Kynar painted aluminum roof.
3) Furnish & Install vinyl Shoreguard sheet pile wall.
4) Furnish & Install concrete wall cap with tiebacks to concrete deadmen.
5) Backfill of eroded areas at seawall.

General Qualifications and Exclusions:

1) There is no asbestos or hazardous materials contemplated on the project, therefore no costs have been included for testing or removal.
2) All boat ramps will be closed during the construction of this project.
3) Any work or repair to the boat ramps is excluded.
4) No costs are included for Metal Railings.
5) No costs are included for Subsurface / Unforeseen Conditions.
6) No costs are included for Utility & Drainage work.
7) No costs are included for Vibration Monitoring.
8) No costs are included for Test Piles and Load testing.
9) No costs are included for Benthic Surveys.
10) No costs are included for Turbidity sampling.
11) No costs are included for Timber pile wraps and caps.
12) No costs are included for Blow counts for driven pile.
13) No costs are included for Sod, Plantings, or Landscaping.
14) No costs are included for Asphalt patches, asphalt repairs, signage and striping.
15) No costs are included for any work not listed above or on the Guaranteed Maximum Price spreadsheet.

We appreciate the opportunity to perform this work for Brevard County. Please let us know if you have any questions.

Total Guaranteed Maximum Price **$462,708.00**

Canaveral
CONSTRUCTION CO., INC.

We appreciate the opportunity to perform this work for Brevard County Parks and Recreation and look forward to a mutually rewarding project. Please let us know if you have any questions.

Respectfully,

J.David Nash
President
Canaveral Construction Co. Inc.

Canaveral Construction Co., Inc. •PO Box 799, 3475 N. US Highway 1, Mims, FL 32754
Phone: 321-269-4011 • Fax: 321-269-5905 • www.canaveralconstruction.com

ATTACHMENT "N"

CERTIFICATE FOR PAYMENT

(INSERT FORM HERE)

APPLICATION AND CERTIFICATE FOR PAYMENT *AIA DOCUMENT G702* (Instructio

TO (OWNER):

PROJECT:

APPLICATI

PERIOD T(

FROM (CONTRACTOR):

VIA (ARCHITECT):

ARCHITEC
PROJECT N

CONTRACT FOR:

CONTRAC

CONTRACTOR'S APPLICATION FOR PAYMENT

CHANGE ORDER SUMMARY			
Change Orders approved in previous months by Owner TOTAL		ADDITIONS	DEDUCTIONS
Approved this Month			
Number	Date Approved		
TOTALS			
Net change by Change Orders			

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: _____ Date: _____

Application is made for Payment, as show
Continuation Sheet, AIA Document G703,

1. **ORIGINAL CONTRACT SUM** .....
2. **Net change by Change Orders** .....
3. **CONTRACT SUM TO DATE** (Line 1 ± 2)
4. **TOTAL COMPLETED & STORED TO DA**
   (Column G on G703)
5. **RETAINAGE:**
   a. ___ % of Completed Work $ ___
   (Column D + E on G703)
   b. ___ % of Stored Material $ ___
   (Column F on G703)
   Total Retainage (Line 5a + 5b or
   Total in Column I of G703) .....
6. **TOTAL EARNED LESS RETAINAGE** .....
   (Line 4 less Line 5 Total)
7. **LESS PREVIOUS CERTIFICATES FOR PAYMENT** (Line 6 from prior Certifi
8. **CURRENT PAYMENT DUE** .....
9. **BALANCE TO FINISH, PLUS RETAINAGE**
   (Line 3 less Line 6)

State of: C
Subscribed and sworn to before me this
Notary Public:
My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED .....
(Attach explanation if amount certified dif
ARCHITECT:

By: _____

This Certificate is not negotiable. The AM
Contractor named herein. Issuance, payme
prejudice to any rights of the Owner or C

AIA DOCUMENT G702 • APPLICATION AND CERTIFICATE FOR PAYMENT • MAY 1983 EDITION • AIA® • © 1983
THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006

N AND CERTIFICATE FOR PAYMENT, containing
s attached.
e stated to the nearest doliar.
e variable retainage for line items may apply.

APPLICATION NUMBER:
APPLICATION DATE:
PERIOD TO:
ARCHITECT'S PROJECT NO:

	C	D	E	F	G		H	I
RK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D + E + F)	% (G ÷ C)	BALANCE TO FINISH (C – G)	RETAINAGE
		FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					

D CERTIFICATE FOR PAYMENT • MAY 1983 EDITION • AIA® • © 1983
CTS. 1735 NEW YORK AVENUE N.W. WASHINGTON D.C. 20006

ATTACHMENT "O"

VENDOR AFFIDAVIT REGARDING SCRUTINIZED COMPANY LIST

Pursuant to § 287.135(2), Florida Statutes, a company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local government entity for goods or services of $1 million or more if at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company: (1) is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, or is engaged in a boycott of Israel; (2) is 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 s. 215.473; or (3) is engaged in business operations in Cuba or Syria.

If the bidder or contractor is found to have falsified the attached affidavit, the Board of County Commissioners of Brevard County may terminate the contract or reject the bid.

STATE OF FLORIDA
COUNTY OF Brevard

BEFORE ME, the undersigned authority, personally appeared J. David Nash, who, being by me first duly sworn, made the following statement:

1. The Business address of Canaveral Construction Co. Inc. (name of bidder or contractor) is 3475 US HWY 1, Mims Fla. 32754

2. My relationship to Canaveral Construction Co. Inc. (name of bidder or contractor) is President (relationship such as sole proprietor, partner, president, vice president).

3. I understand that "Boycott of Israel" has the same meaning as defined in §215.4725, Florida Statutes, and means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. A statement by a company that it is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the State Board of Administration to be evidence that a company is participating in a boycott of Israel. The term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel.

4. I understand that "business operations" means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing,

leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

5. Canaveral Const. (name of the bidder or contractor) is not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, Florida Statutes, or is engaged in a boycott of Israel.

6. Canaveral Const (name of the bidder or contractor) is 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 s. 215.473, Florida Statutes.

7. Canaveral Const (name of the bidder or contractor) is not engaged in business operations in Cuba or Syria.

Signature

Sworn to and subscribed before me in the state and county first mentioned above on the 27th day of July, 2018.

Jessica L Bode
Notary Public

(affix seal)

My commission expires:

Notary Public State of Florida
Jessica L Bode
My Commission GG 204447
Expires 04/05/2022

ATTACHMENT "P"

MINORITY EMPLOYMENT INFORMATION

The Board of County Commissioners requires construction contracts, who would otherwise be required to file and EEO Form 1 Report under Federal Law (currently Federal law requires filing for employers with more than 15 employees), to submit an EEO Form 1 Report with the submission of their GMP. This requirement extends to any subcontractors who are required to submit the EEO Form 1 Report (over 15 employees) under Federal law. Failure to submit an Acknowledgment and/or EEO Form 1 Report with your GMP will be reason to declare your proposal "non-responsive" to the proposal requirements. However, the information will be used for statistical purposes only and will not be used in any way as a basis to award a contract..

Please fill out and sign one (1) of the following statements:

1. My Company or subcontractors are required to submit the EEO Form 1 Report and they are attached.

   Company Name:
   Signature: _____ Date: _____

2. My Company or subcontractors are not required to submit the EEO Form 1 Report.

   Company Name: Canaveral Construction
   Signature: _____ Date: 7/27/18

Company Name: Canaveral Construction Co. Inc.

Company Address: 3475 US Hwy 1, Mims, Fla 32754

Company Telephone: 321 · 269. 4011

Signature: _____ Printed Signature: J. David Nash

ATTACHMENT "Q"

PUBLIC ENTITY CRIME ACKNOWLEDGMENT

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/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of rental property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for Category Two ($15,000) for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of Florida
County of Brevard
J. David Nash, being duly sworn, deposes and says that:

(1) Affiant is President of Canaveral Const., the Bidder that has submitted a bid/quote/proposal;

(2) Affiant is fully informed respecting the preparation and contents of the bid/quote/proposal and of all pertinent circumstances respecting such bid/quote/proposal;

(3) Such bid/quote/proposal is genuine and is not a collusive or sham bid/quote/proposal;

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has 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/quote/proposal in connection with the Contract for which the bid/quote/proposal has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by Contract, or has in any manner, directly or indirectly, sought by the agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the bid/quote/proposal or of any other Bidder, or to fix any overhead, profit or cost element of the bid/quote/proposal price or the bid/quote/proposal price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Board of County Commissioners of Brevard County, Florida, or any person interested in the Contract; and

(5) The price or prices negotiated for the bid/quote/proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement

on the part of the Bidder or any of its agents, representatives, owners, employees, or parties of interest, including affiant.

Signature

President
Title

Subscribed and sworn to before me this 27th day of July, 2018.

Notary Public

My Commission expires: 4/5/22

Notary Public State of Florida
Jessica L Bode
My Commission GG 204447
Expires 04/05/2022

Exhibit A

Parks and Recreation Department
Hurricane Priority List

		Estimate	Balance Forward Commited	Ins Rec'd	Funds Needed
1	Central Area Roofs	$113,448			0
1	Veterans Boardwalk	$1,000,000	$372,288	$63,849	$563,863
2	Parrish Park Docks- Titusville	$751,643	$751,643		$0
3	Kennedy Point Boat Ramp & Seawall	$703,695			$703,695
4	Titusville Veterans Pier Catwalk	$294,729	$190,729	$104,000	$0
5	Waterway South Dock & 3 T-docks	$225,000			$225,000
6	Riverwalk Park Boardwalk	$53,820			$53,820
7	Space View Park Boardwalk & Dock	$2,842,000			$2,842,000
8	Rotary South Boardwalk & Dock	$1,453,140			$1,453,140
9	Kiwanis Island South Side Dock	$181,500			$181,500
10	Statham Boardwalk	$900,000			$900,000
11	Kelly Park East Seawall	$181,500	$36,750		$144,750
12	Marina Park Shoreline	$1,573,425			$1,573,425
13	Sandpoint Park Shoreline	$2,198,547			$2,198,547
14	Manzo Park Shoreline & Boardwalk	$359,568			$359,568
15	Nicol Park Shoreline	$423,968			$423,968
16	Mcfarland Fishing Pier & Dock	$138,600			$138,600
17	Ulumay Fishing Pier	$154,660			$154,660
18	Valencia Fishing Pier	$67,500			$67,500
			$1,351,410	$167,849	$11,984,036

Mitigated Projects

	Matthew	Irma	Total
Port St John Boat Ramp	$450,000	$150,592	$600,592
Hog Point Caretaker House	$190,000	$0	$190,000
Manatee Hammock Shoreline	$747,708	$352,968	$1,100,676

INTERNAL LOAN

Parks and Recreation Department

WHEREAS, The County's Property and Casualty Insurance Program Reserves are not required for the immediate needs of the Insurance Program; and

WHEREAS, The Parks and Recreation Department requests a temporary loan to fund the repairs due to hurricane damages to Parks throughout the County; and

WHEREAS, Policy No BCC-56, Budget and Financial Policies provide for inter-departmental/fund loans.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein, the parties hereby agree, as follows:

I. **AUTHORIZATION:** The County's Property and Casualty Insurance Program will provide a temporary loan to the Parks and Recreation Department. The Parks and Recreation Department will request funds, on an as needed bases, with the approval of the County Manager. Once approval is received from the County Manager, funds will be transferred from the County's Property and Casualty Insurance Program, to the Parks and Recreation Department's capital improvement program as described in Exhibit A of a memorandum to the Board on April 15, 2018.

II. **AMOUNT OF LOAN:** Not-to-exceed $12,000,000.

III. **TERMS AND PAYMENTS:** The initial Principal shall be repaid within 30 days of receipt of Insurance and Federal Emergency Management Agency (FEMA) reimbursements for Hurricanes Matthew and Irma for projects funded from this loan. The Parks and Recreation Department shall make payments of principal and interest to the County's Property and Casualty Insurance Program annually over a period of six years for unreimbursable expenses until the loan and interest are repaid.

IV. **INTEREST RATES:** The interest rate the Parks and Recreation Department shall pay on the outstanding Principal shall be the rate of the County's Consolidated Investment Earning Rate (CCIER). The amount of the annual interest payment will be calculated based on the average monthly CCIER, as determined by the County Finance Department. It is the specific intent of this agreement that the interest charged to the Parks and Recreation Department shall be equal to the interest income lost by the County Insurance Program Internal Service Fund. Because the CCIER is a variable rate; the amount of the annual payment will vary.

V. **SOURCE OF FUNDS:** The Parks and Recreation Department Program, Insurance and FEMA reimbursements from Hurricanes Matthew and Irma reimbursement shall be the source of funds for the repayment of this loan.

Gerald Visco Date
Human Resources Director

Mary Ellen Donner Date
Parks and Recreation Department Director