

**CONSTRUCTION**

**MANAGEMENT AT RISK**

**PHASE 2 CONSTRUCTION**

**SERVICES AGREEMENT**

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**BY AND BETWEEN THE CITY OF OAKLAND PARK AND STATE CONTRACTING AND ENGINEERING CORPORATION FOR PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES FOR CONSTRUCTION OF THE L-SHAPED BUILDING AT PARK PLACE**

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, by and between the City of Oakland Park, Florida, a municipal corporation, hereinafter referred to as the "CITY" and State Contracting and Engineering Corporation, a Florida corporation, duly licensed to do business in the State of Florida, hereinafter referred to as the "Construction Manager".

## **DEFINITIONS**

**Acceptance** means the formal written acceptance by the City of the completed Work. Acceptance shall mean that all the Work required by the Contract or individual work orders issued are fully executed and completed in accordance to the Construction Documents so that no Work remains to be completed. No further performance of Work shall be required except regarding the correction of latent defects, gross mistakes and fraud. This shall require that all close-out documentation be fully completed, submitted, and approved.

**Agreement** means this Agreement, together with all documents incorporated herein by reference and the Contract Documents.

**Agreement Time** means the time period defined in this Agreement for the Construction Manager to complete the Construction Phase Services.

**Change Order** means a written document ordering a change in the Guaranteed Maximum Price or Agreement Time or a material change in the Work as determined by the Project Manager. A Change Order must comply with the Contract Documents.

**City** means the City of Oakland Park, Florida, a Florida municipal corporation. In all respects hereunder, City's performance is pursuant to the City's capacity as Owner of the Project.

**City Commission** means the legislative body of the City of Oakland Park.

**City Manager** means the duly appointed chief administrative officer of the City of Oakland Park.

**Constructability** means the creative, organized process of analyzing a project's drawings, specifications and other project documentation with a goal of minimizing design, detailing, and specification problems which might render the construction contract documents unbuildable or requiring addenda or change orders to make them buildable.

**Construction Estimate** means a cost estimate for the completion of the Work, which estimate shall include all components of the cost of the Work, as well as the Construction Manager's General Conditions and Fee for the Project.

**Construction Change Directive** means a written directive to effect changes to the Work, issued by the Project Manager that may affect the Agreement Price or Time.

**Construction Manager** means State Contracting and Engineering Corporation who has been selected to provide services including, but not limited to, preparation of cost estimates, constructability reviews, value engineering and assist in systems life cycle cost analysis, estimating, scheduling, bidding and submission of a GMP, as defined below, for construction, and construction management. Upon execution of the GMP Amendment, the Construction Manager shall serve, from that point forward, as the general contractor under this Agreement.

**Construction Manager's Fee** is of the Cost of the Work, plus the Construction Manager's General Conditions and insurance cost.

**Construction Phase Services** means the services to be performed through the Construction Manager during the construction phase of the Project, including without limitation, the Construction Work and such other services as required by this Agreement or reasonably inferred herein.

**Construction Work** means all Work required by this Agreement for the Construction Phase of Project.

**Consultant** means the individual, partnership, corporation, association, joint venture, or any combination thereof, of properly registered professional architects and/or engineers, which has entered into an agreement to provide professional services to the City for this Project.

**Contingency** means the dollar amount or percentage included in the Guaranteed Maximum Price (GMP) to be used by the Construction Manager for unexpected Cost of the Work or General Conditions, with the CITY's written approval for unforeseen conditions during construction. Any unused amount of the Contingency at Final Completion shall be retained by the CITY.

**Contract Documents** means this Agreement and its Exhibits, attachments and Forms, final, permitted Construction Documents and Specifications, any Addenda to the RFQ, the Performance Bond, the Notice of Award, the Notice(s) to Proceed, the Purchase Order and all agreed upon modifications issued after execution of the Agreement are the documents which are collectively referred to as the Contract Documents.

**Cure** means the action taken by the Construction Manager promptly after receipt of written notice from the City of a breach of the Agreement for the Work, which shall be performed as a Cost of the Work, but within the Guaranteed Maximum Price, to repair, replace, correct, or remedy all material, equipment, or other elements of the Work or the Agreement affected by such breach, or to otherwise make good and eliminate such breach, including, without limitation, repairing, replacing or correcting any portion of the Work or the Project site disturbed in performing such cure.

**Cure Period** means the period of time in which the Construction Manager is required to remedy deficiencies in the Work or compliance with the Contract Documents after receipt of written notice to Cure from the City identifying the deficiencies and the time to Cure.

**Completion** means the date certified by the Consultant and PROJECT MANAGER in the Final Certificate of Payment in which all conditions and requirements of any permits and regulatory agencies have been satisfied; and the documents (if any) required to be provided by Construction Manager have been received by the PROJECT MANAGER; and to the best of Consultant's and PROJECT MANAGER's information and belief has been fully completed in accordance with the terms and conditions of the Contract Documents.

**Contract Sum** means the total of the Cost of the Work, plus the Construction Manager's General Conditions and insurance and bond cost, plus Construction Manager's Fee. The Owner agrees to pay the Construction Manager the Contract Sum in accordance with this Agreement. The Construction Manager shall not be entitled to be paid any portion of the Contract Sum which exceeds the Guaranteed Maximum Price.

**General Conditions** includes the provision of labor, management, services and facilities as set forth in Section 1.0 below by the Construction Manager for the following items only:

- a. The Cost of salaries and wages of labor and staff in the direct employ of the Construction Manager the performance of the Work. The cost of Contractor's home or branch office employees or consultants while on the project site, or not at the project site while performing Work on the Project, including the cost of all benefits, insurance, and taxes attributable to wages and salaries and other company overhead expenses for said home office employees (labor burden). The cost of its field employees or their

replacements, including the cost of all benefits, insurance, and taxes attributable to wages and salaries for said field employees. The cost of labor burden for all employees shall also be included in the cost of General Conditions.

- b. Costs, including transportation, installation, maintenance, dismantling and removal, of materials, supplies, temporary facilities (including project field offices, furniture and fixtures), all temporary utilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by Construction Manager at the Project site and fully consumed in the performance of the Work; and costs less salvage value on such items if not fully consumed, whether sold to others or retained by Construction Manager;
- c. Rental charges, at standard industry rates for the area, for Construction Manager's temporary on site office facilities;
- d. That portion of the reasonable travel and subsistence expenses of Construction Manager's personnel, assigned to the Project site, incurred while traveling outside of the Broward County area in discharge of duties connected with the Work;
- e. Temporary living and travel expenses of employees who are not relocated, but assigned to the Project;
- f. Cost of reproducing and printing;
- g. Cost of site safety and security, with the exception of traffic safety for the Project sites as may be required
- h. Cost to protect the Work and adjacent property from loss and damage.

**Final Completion** means the date when all punch list items are completed, including all closeout requirements, submittals and approval by the Consultant, is given to the CITY in writing. Final Completion not accepted until approved by the CITY.

**Guaranteed Maximum Price** means the sum agreed to between the Construction Manager and the City and set forth in the Agreement as the maximum total Project price that the Construction Manager guarantees the

Contract Sum shall not exceed the Guaranteed Maximum Price.

**Inspector** means an employee of the CITY of Oakland Park, Florida, assigned by the Director to make observations of work performed by the Construction Manager.

**Materials** means Materials incorporated in this Project or used or consumed in the performance of the Work.

**Project Schedule** means the Schedule prepared by the Construction Manager and approved by the City and a scheduling consultant retained by the City, using a critical path method, as updated monthly, that identifies, coordinates and integrates the design and construction schedules for the development of the Project. The Preliminary Project Schedule is attached.

**Memorandum of Changes** means the notification provided to the City and the Consultant by the Construction Manager at the times specified in this Agreement that recommends changes based on the Value Engineering and Constructability reviews.

**Notice to Proceed** means written notice or directive issued by the Director or City's Project Manager acknowledging that all conditions precedent has been met and directing that the Construction Manager may commence work on the Project or a specific task of the Project.

**Pre-Construction Phase Services** means the services the Construction Manager shall perform for the preconstruction services as provided in the Agreement date April 10, 2020 between the parties.

**Pre-Construction Work** means all work required by this Agreement during the Pre-Construction Phase of the Project.

**Professional Services** means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as applicable, as defined by the laws of the State of Florida, or those performed by any architect, professional engineer, landscape architect, or registered surveyor or mapper in connection with his or her professions employment or practice.

**Progress Report** means a monthly progress report to be prepared by Construction Manager and will contain the following: (a) listing of actual costs for completed activities and estimates for uncompleted tasks; (b)

identification of variances between actual and budgeted or estimated costs; (c) the updated Project Schedule; (d) progress photos; (e) executive summary; (f) a discussion of pending items and existing or anticipated problems

**Project** means the construction, alteration or repair, and all service and incidents thereto, of public facilities, as contemplated and budgeted by the City, including the work described herein.

**Project Manager** means an employee of the CITY of Oakland Park, expressly designated as PROJECT MANAGER in writing by the DIRECTOR, who is the representative of the City, concerning the Contract Documents.

**Punch List** means the list of items, prepared in connection with the inspection of the Project by the CITY'S Representative and the Consultant in connection with Substantial Completion of the Work or a portion of the Work, which the City's Representative or Consultant has designated as remaining to be performed, completed or corrected before the Work will be accepted by the CITY. The preparation of a complete Punch List for the area or building to be occupied as agreed upon between the CITY and Construction Manager by the CITY shall be an absolute condition precedent to the CITY'S occupancy of any portion of the Project.

**RFQ** means the official documents setting forth information and requirements; contract forms, bonds, and certificates; general and supplementary conditions of the Contract Documents; the specifications; and the plans and drawings of the Project.

**Shop Drawings** are drawings, diagrams, schedules and other product data specifically prepared for the Work by the Construction Manager or a Sub-Contractor, sub-Sub-Contractor, manufacturer, supplier or distributor to illustrate the specific requirements for some portion of the Work. The Construction Drawings shall not be used as Shop Drawings

**Subcontractor** means a person, firm or corporation having a direct contract with the Construction Manager including one who furnishes material worked to a special design according to the RFQ for this work, but does not include a person, firm or corporation merely furnishing material not so worked.

**Substantial Completion** means that date on which, as certified in writing by Consultant, the Work, or a portion thereof designated by the PROJECT

MANAGER is at a level of completion in substantial compliance with the Contract Documents such that all conditions of permits and regulatory agencies have been satisfied and the City or its designee can enjoy beneficial use or occupancy and can use or operate it in all respects for its intended purpose. A Certificate of Final Inspection must be issued for Substantial Completion to be achieved, however, the issuance of a Certificate of Occupancy or the date thereof is not to be determinative of the achievement or date of Substantial Completion.

**Surety** means the surety company or individual which is bound by the Performance bond and Payment bond with and for Construction Manager who is primarily liable, and which surety company or individual is responsible for Construction Manager's acceptable and timely performance of the work under the contract and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes, as amended from time to time.

**Work** means the totality of the obligations, including construction and other services required by the Contract Documents, whether completed or partially completed, including all labor, materials, equipment and service provided or to be provided by Construction Manager to fulfill Construction Manager's obligations. The work may constitute the whole or a part of the project.

**Written Notice** shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, if delivered at or sent by registered mail or other traceable delivery service to the last known business address. Electronic, facsimile (FAX) or other telephonic transmission shall not be considered as written notice.



**ARTICLE 1**  
**SCOPE OF WORK**

*The Construction Manager shall furnish professional Construction Management at Risk Services for the Project described in RFQ upon issuance of Construction Manager’s Notice to Proceed by the City’s Project Manager.*

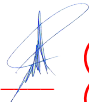
This Agreement, along with any exhibits, appendices, addendums, schedules, and amendments hereto, encompasses the entire agreement of the parties, and supersedes all previous understandings and agreements between the parties, whether oral or written. The parties hereby acknowledge that this agreement is limited to the construction of the L-Shaped Building at Park Place as per the Contract Documents.

Construction Manager has reviewed the Contract Documents for of the L-Shaped Building at Park Place and accepts and acknowledges them as complete. The Construction Manager shall furnish the following Services as specifically authorized by Construction Manager’s Notice to Proceed issued by the Project Manager.

1.0 The contract price elements are as follows:

**CONTRACT PRICE**  
**FIXED FEE WITH A GUARANTEED MAXIMUM PRICE (GMP) FOR**  
**L-SHAPED BUILDING AT PARK PLACE (Exhibit A)**

a) Direct Construction Cost	<u>\$346,415</u>
b) General Conditions Cost	<u>\$54,816</u>
c) Construction Management Fee	<u>\$42,129</u>
d) Insurance and Bonds	<u>\$10,031</u>
d) Contingency	<u>\$10,031</u>
e) Direct Purchase Tax Savings (estimated)	\$0
<b>TOTAL GMP (ALL INCLUSIVE)</b>	<b>\$463,422</b>

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1.1

Construction Manager hereby agrees to furnish all of the labor, materials, equipment services and incidentals necessary to perform all of the work described in the Contract Documents Including Drawings, for L- Shaped Building Enhancements Specifications and Addenda for the Project known as the RFQ # 120919 and all plans by the ~~Consultant~~ Construction Manager

- 1.2 The drawings shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Contract Documents, the most stringent requirements applicable to the Construction Manager shall control.
- 1.3 The organization of the Specifications into divisions and sections and the arrangement of drawings shall not control Construction Manager in dividing the Work among subcontractors or in establishing the extent of the work to be performed by any trade. The organization of the Specifications and the arrangement of the Drawings is for the convenience of the Construction Manager and is not intended to relieve the Construction Manager from its obligation to conduct a complete study of the Drawings, Specifications and Addenda for the purpose of directing and coordinating the various subcontractors and suppliers as to their respective responsibilities.

**ARTICLE 2**  
**CONSULTANT'S AUTHORITY**

- 2.1 Consultant may provide as requested by the CITY selected technical and management services to assist the CITY in maintaining schedules, establishing budgets, controlling costs, and achieving quality.

**ARTICLE 3**  
**TIME FOR PERFORMANCE**

**3.1 CONTRACT TIME:**

CONTRACTOR shall be instructed to commence the work by written Notice to Proceed issued by the PROJECT MANAGER. The Notice to Proceed will not be issued until Construction Manager's submission to CITY of all required documents, after execution of the CONTRACT by both parties. Receipt of all permits by Construction Manager is a condition precedent to the issuance of the Notice to Proceed. The Work to be performed pursuant to the Notice to Proceed including the submission of a Project Schedule, Schedule of Values, Submittals, Submittal Schedule shall be completed within Fourteen (14) calendar days of the Project Initiation Date specified in the Notice to Proceed.

- 3.1.2 Time is of the essence throughout this contract. The

Project shall be Substantially Completed within one hundred and twenty (120) **calendar days** from the date of the Notice to Proceed. The total Project shall be completed and ready for final payment in accordance with Article 5 within thirty (30) calendar days from the date certified by the PROJECT MANAGER as the date of Substantial Completion.

- 3.13 Upon failure of Construction Manager to Substantially Complete the Project within the specified period of time, plus approved time extensions, Construction Manager shall pay to CITY the sum of \$250 Dollars (\$250.00) for each calendar day after the time specified in Article 3.1.2, plus any approved extensions for Substantial Completion.

Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by CITY as a consequence of such delay, and both parties desiring to obviate any questions of dispute concerning the amount of said damages and the cost and effect of the failure of Construction Manager to complete the Contract on time. The above-stated liquidated damages shall apply separately to each phase of the Project for which a time for completion is given.

- 3.14 PROJECT MANAGER is authorized to deduct liquidated damages only from retainage due to Construction Manager for the work under this contract or as much thereof as PROJECT MANAGER may, at its option, deem just and reasonable. The Owner shall not withhold progress payments due to any assessment of liquidated damages.
- 3.15 Extensions to the Contract Time for delays caused by the effects of inclement weather shall be submitted as a request for change in Contract Time pursuant to Article 3.3. These time extensions are justified only when rains or other inclement weather conditions or related adverse soil conditions prevent Construction Manager from productively performing controlling items of work identified on the accepted schedule or updates resulting in Construction Manager being unable to work at least fifty

(50%) of the normal workday on controlling items of work identified on the accepted schedule or updates due to adverse weather conditions.

### **3.2 SUBSTANTIAL COMPLETION DATE:**

When Construction Manager considers that the Work, or portion thereof designated by PROJECT MANAGER pursuant to Article 3.4 hereof, has reached Substantial Completion, Construction Manager shall so notify PROJECT MANAGER in writing. PROJECT MANAGER shall then promptly inspect the work.

When PROJECT MANAGER, on the basis of such an inspection, determines that the work or designated portion thereof is Substantially Complete, PROJECT MANAGER will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion; shall state the responsibilities of CITY and Construction Manager for security, operation, safety, maintenance, utilities, damage to the work, insurance, and warranties; shall list all work yet to be completed (Punch List) to satisfy the requirements of the Contract Documents for Final Completion. The failure to include any items of corrective work on such list does not alter the responsibility of Construction Manager to complete all the work in accordance with the Contract Documents. The Certificate of Substantial Completion shall be submitted to the PROJECT MANAGER, after execution by Construction Manager, and the CITY, indicating their written acceptance of such certificate.

### **3.3 NOTIFICATION OF CHANGE OF CONTRACT TIME OR CONTRACT PRICE:**

- 3.3.1 Any claim for a change in the Contract Time or Contract Price shall be made by written notice and delivered by Construction Manager to the PROJECT MANAGER within five (5) calendar days of the commencement of the event giving rise to the claim and stating the general nature of the claim. Notice of the nature and to the extent reasonably possible elements of the claim shall be delivered within twenty (20) calendar days after the date of such written notice. Thereafter, within ten (10) calendar days of the termination of the event giving rise to the claim, notice of the extent of the claim with supporting data shall be delivered unless the CITY allows an additional period of time to ascertain more

accurate data in support of the claim and shall be accompanied by Construction Manager's written statement that the adjustment claimed justified as a result of the occurrence of said event. All claims for adjustment in the Contract Time or contract price shall be determined by the CITY in accordance with Article 4 hereof, if the CITY and Construction Manager cannot otherwise agree. NO CLAIM FOR AN ADJUSTMENT IN THE CONTRACT TIME OR CONTRACT PRICE WILL BE VALID IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.

- 3.3.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of and through no fault or negligence of Construction Manager if a claim is made therefore as provided in Article 3.3. Such delays shall include, but not be limited to, acts or neglect by any separate independent contractors employed by CITY, fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

**3.4 USE OF COMPLETED PORTIONS:**

- 3.4.1 CITY shall have the right, at its sole option, to take possession of and use of any completed or partially completed portions of the Project. Such possession and use shall not be deemed an acceptance of any of the Work not completed in accordance with the Contract Documents. If such possession and use increase the cost of or delays of the work, Construction Manager shall be entitled to reasonable extra compensation, or reasonable extension of time or both, by appropriate adjustment pursuant to Article
- 3.4.2 In the event CITY takes possession of any completed or partially completed portions of the project, the following shall occur:
- 3.4.3 CITY shall give notice to Construction Manager in writing at least fifteen (15) calendar days prior to CITY's intended occupancy of a designated area.
- 3.4.4 CONTRACTOR shall complete to the point of Substantial

Completion the designated area and request inspection and issuance of a Certificate of Substantial Completion in the form provided by the CITY.

344.1 Upon the PROJECT MANAGER'S issuance of a Certificate of Substantial Completion, CITY will assume full responsibility for maintenance, utilities, subsequent damages of or by the CITY and the public, adjustment of insurance coverage and start of warranty for the occupied area.

344.2 CONTRACTOR shall complete all items noted on the Certificate of Substantial Completion within the time specified in article 3.2 and request final acceptance of the portion of the Work occupied. Upon completion of final inspection and receipt of an application for final payment, the PROJECT MANAGER shall issue a Final Certificate of Payment relative to the occupied area.

344.3 If the CITY finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed upon by CITY and Construction Manager and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. Insurance on the unoccupied or unused portion or portions shall not be canceled or lapsed on account of such partial occupancy or use. Consent of Construction Manager and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

#### **ARTICLE 4**

#### **CHANGES IN THE WORK OR TERMS OF CONTRACT DOCUMENTS**

4.1 Without invalidating the Contract and without notice to the surety, CITY reserves and shall have the right, from time to time, to make such increases, decreases or other changes in the character or quantity of the work as may be considered necessary or desirable to

complete fully and acceptably the proposed construction in a satisfactory manner. Any extra or additional work within the scope of this project must be accomplished by means of an appropriate Change Order in accordance with the requirements of the Contract Documents.

- 4.2 Any changes to the terms of the Contract Documents must be contained in a written document, executed by the parties hereto, with the same formality and of equal dignity prior to the initiation of any work reflecting such change. This section shall not prohibit the issuance of Change Orders executed only by CITY as hereinafter provided.
- 4.3 The PROJECT MANAGER may direct the Construction Manager to expedite the work by whatever means the Construction Manager may use, including, without limitation, increasing staffing or working overtime to bring the work back within the progress schedule. If the expediting of Work is required due to reasons outside the control or responsibility of the Construction Manager, then the additional costs incurred shall be the subject of an appropriate adjustment issued pursuant to Article 4, as applicable.

**4.4 CHANGE ORDERS:**

- 4.4.1 Changes in the quantity or character of the work within the scope of the Project which are not properly executed, or the subject of Field Orders or Supplemental Instructions, including all changes resulting in changes in the contract price, or the Contract Time, shall be authorized only by written Change Orders approved and issued in accordance with the provisions of the Contract Documents and the applicable of the CITY's Purchasing Policies.
- 4.4.2 Without invalidating the Contract and without notice to any surety, CITY reserves and shall have the right, from time to time to make such increases, decreases or other changes in the character or quantity of the work as may be considered necessary or desirable to complete fully and acceptably the proposed construction in a satisfactory manner. Any changes increase or decreases to the work within the scope of this project must be accomplished by means of appropriate Change Orders.

- 4.4.3 Pursuant to the CITY Purchasing Policies, all changes to construction contracts which exceeds the GMP must be approved in advance in accordance with the value of the Change Order or the calculated value of the time extension. Construction Manager shall not start work on any changes requiring an increase in the contract price or the Contract Time until a Change Order setting forth adjustments is approved and issued by the CITY. If the Construction Manager commences work pertaining to a Change Order prior to receiving written authorization through the Project Manager, then they do so at their own risk and assume all associated responsibility and costs. Upon receipt of a Change Order, Construction Manager shall promptly proceed with the work set forth within the document.
- 4.4.4 In the event satisfactory adjustment cannot be reached for any item requiring a change in the Contract Price or Contract Time, and a Change Order has not been issued, CITY reserves the right at its sole option to either terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the disputed work; or submit the matter in dispute to Consultant as set forth in Article 27 hereof. During the pendency of the dispute, and upon receipt of a Change Order, Construction Manager shall promptly proceed with the change in the work involved and advise the Consultant and PROJECT MANAGER in writing within seven (7) calendar days of Construction Manager's agreement or disagreement with the method, if any, provided in the Change Order for determining the proposed adjustment in the Contract Price or Contract Time. The City shall pay the Construction Manager's actual cost for such disputed work on a monthly basis, with Construction Manager's normal application for payment.
- 4.4.5 On approval of any Contract change increasing or decreasing the Guaranteed Maximum Price, Construction Manager shall ensure that the Performance/ Payment Bond is changed so that each reflects the Guaranteed Maximum Price as the penal sum of the bond.

**4.5 FIELD ORDERS AND SUPPLEMENTAL INSTRUCTIONS:**



- 4.5.1 The Project Manager shall have the right to approve and issue changes setting forth written interpretations of the intent of the Contract Documents and ordering minor changes in work execution, providing the Field Order involves no change in the Contract Price or Contract Time.
- 4.5.2 Project Manager shall have the right to approve and issue Supplemental Instructions setting forth written orders, instruction, or interpretations concerning the Contract Documents, provided such supplemental instructions involve no change in the contract price or Contract Time.

**4.6 NO DAMAGES FOR DELAY:**

- 4.7.1 No claim for damages or any claim other than for an extension of time, shall be made or asserted against CITY by reason of any delays. Construction Manager shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from CITY for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, Eichleay Formula Costs, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by Construction Manager for hindrance or delays due solely to fraud bad faith or active interference on the part of CITY or its agents. Otherwise, Construction Manager shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.
- 4.7.2 Notwithstanding the foregoing, in the event of a delay caused by the Owner or by a force majeure to the Project bill all General Conditions incurred by Construction Manager on account of such delay, but any such increase to Construction Manager's General Conditions shall not increase the GMP.

#### **4.7 EXCUSABLE DELAY: COMPENSABLE & NON-COMPENSABLE**

4.7.1 Excusable Delay: Delay which extends the completion of the work which is caused by circumstances beyond the control of Construction Manager or its subcontractors, materials persons, suppliers, or vendors is Excusable Delay. Construction Manager is entitled to a time extension of the Contract Time for each day the work is delayed due to excusable delay. Construction Manager shall document its claim for any time extensions.

Failure of Construction Manager to comply with Article 3.3 hereof as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of delay.

4.7.2 Excusable Delay may be compensable or non-compensable.

(a) Compensable Excusable Delay. Excusable Delay is only compensable when: (i) the delay extends the Contract Time, and (ii) is due solely to fraud, bad faith or active interference on the part of CITY or its agents. In no event shall Construction Manager be compensated for interim or non-critical delays, which do not extend the Contract Time, except to the extent that Construction Manager incurs General Conditions Costs which are within the Guaranteed Maximum Price.

(b) Non-Compensable Excusable Delay. When Excusable Delay is not due solely to fraud, bad faith or active interference on the part of CITY or its agents, then Construction Manager shall be entitled only to a time extension and no further compensation for the delay, other than Construction Manager's reimbursement of Construction Manager's General Conditions within the Guaranteed Maximum Price.

#### **ARTICLE 5** **PAYMENTS AND COST OF THE WORK**

- 5.1 In full consideration of the full and complete performance of the Work and all other obligations of the Construction Manager hereunder, the CITY shall pay to the Construction Manager a sum of money not to exceed the contract price which is defined to be the total of: (i) the Construction Manager's Cost of the Work, (ii) an amount equal to the total General Conditions and Construction Management Fee line items, divided by the number of months in the Construction Schedule plus any additional General Conditions and Per Diem Construction Manager's Fee, as provided herein (iii) so much of the approved amount of the Contingency as may have been expended, (iv) Construction Manager's Fee. The contract price shall not exceed the sum shown in Article 1.0 as the Guaranteed Maximum Price, adjusted to take into account any approved Change Orders, and shall mean those costs necessarily incurred and paid by the CONTRACTOR in connection with the performance of all the work.
- 5.2 In the event that the Construction Manager's total approved expenditures for the Project shall exceed the Guaranteed Maximum Price, the Construction Manager shall pay such excess from its own funds, and the CITY shall not be required to pay any amount that exceeds the GMP; and the Construction Manager shall have no claim against the CITY on account thereof.
- 5.3 The term 'Cost of the Work' shall mean the sum of all direct costs necessarily and reasonably incurred and paid by the Construction Manager in the performance of the Work. Such costs shall be at rates not higher than those customarily paid in the locality of the Project except with the prior written consent of CITY. The Cost of the Work shall include only those General Conditions Cost, insurance and bond costs, and Cost of the Work determined as follows:

**5.3.1 SUBCONTRACTOR COSTS:**

- (1) Where the work is covered by unit prices contained in the Contract documents or an applicable subcontract, the Cost of the Work shall be determined by application of unit prices to the quantities of items involved. By mutual acceptance of a lump sum which subcontractor, Construction Manager and CITY acknowledge contains a component for overhead and

profit, which shall be subject to the limitation of subcontractor fees set forth in Article 4.4.3. Whenever a change in subcontractor work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit or no change-in-cost, Construction Manager shall submit an initial cost estimate obtained from the subcontractor and acceptable to the CITY. The breakdown shall list the quantities and unit prices for materials, labor, equipment and other items of cost. Whenever a change involves more than one subcontractor and the change is an increase in the GMP, overhead and profit percentage of each subcontractor and Construction Manager, if applicable, shall be itemized separately.

- (2) If the subcontract provides that the subcontractor is to be paid on the basis of Cost of the Work plus a fee, the subcontractor's Cost of the Work shall be determined in the same manner as Construction Manager's Cost of the Work, subject to the limitation on subcontractor's fees set forth in Article 4.4.3.
- (3) If changes to subcontracted work affected the GMP, such changes shall be accomplished in accordance with Article 4.4, Change Orders. The amount of decrease in the GMP for any change that results in a net decrease in cost, will be the amount of the actual net decrease. When both additions and decreases are involved in any one change, the combined effect shall be figured on the basis of the net change in the GMP, if any.

### **5.3.2 MATERIALS AND EQUIPMENT:**

Cost of all materials and equipment furnished and incorporated in the work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith, adjusted in accordance with Article 7.1, pertaining to Discounts, Rebates and Refunds; rentals of all construction equipment and machinery and the parts thereof whether rented from Construction Manager or others in accordance with rental agreements and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all

in accordance with the terms of said agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the work.

**5.3.3 MISCELLANEOUS COSTS:**

- (1) The cost, as documented by the Construction Manager's detailed receipts, of telephone, telegrams, postage, photographs, blueprints, office supplies, first aid supplies and related miscellaneous costs reasonably incurred in direct support of the work at the project location.
- (2) Premiums (Net) on bonds and insurance, including subcontractor bonds, if any that the Construction Manager is obligated to secure and maintain under the terms of the CONTRACT DOCUMENTS and such other insurance and bonds as may be required, subject to the written approval of the CITY. Premiums paid, as part of Construction Manager's Cost, shall be net of trade discounts, volume discounts, dividends and other adjustments. All insurance and bonds shall be provided by companies acceptable to the CITY.

Self-insurance by the Construction Manager or insurance through any affiliates of Construction Manager shall not be permitted without the CITY's prior written approval. CITY's approval shall not be required on a subcontractor bond, and premiums thereof shall be considered a Cost of the Work.

- (3) The cost of obtaining and using any utility services required for the Work that are not paid directly by CITY, including fuel and sanitary services at the Project sites.
- (4) The cost of removal of debris from the sites. The Project sites, lay-down locations, and staging sites will be kept clear of all debris on a daily basis. All subcontracts shall require subcontractors to remove all debris daily created by their activities, and the Construction Manager shall exercise its best efforts to enforce such requirements or effect the removal of

the debris of the subcontractors who fail in this regard. Provided, however, the Construction Manager shall not be required to remove debris created by the CITY's separate contractors except pursuant to Change Order procedures set forth herein.

- (5) The cost and expenses, actually sustained by the Construction Manager in connection with the work, of protecting and repairing adjoining property, if required, except to the extent that any such cost or expense is:
  - (a) the responsibility of the Construction Manager under Article 1, reimbursable by insurance or otherwise;
  - (b) Due to the failure of the Construction Manager to comply with the requirements of the Contract Documents with respect to insurance; or
  - (c) Due to the failure of any officer of the Construction Manager or any of its representatives having supervision or direction of the Work to exercise good faith or the standard of care normally exercised in the conduct of the business of a general contractor experienced in the performance of work of the magnitude, complexity and type encompassed by the Contract Documents, in any of which events any such expenses shall not be included in Construction Manager's costs.
- (6) Federal, state, municipal, sales, use and other taxes required by law, as applicable to the Project, all with respect to service performed or materials furnished for the work, it being understood that none of the foregoing includes, federal, state or local income or franchise taxes.
- (7) All reasonable costs and expenditures necessary for the operation of the project job site office(s), including cost of field computer equipment and software.

- (8) The proportion of necessary transportation, travel and subsistence expenses of Construction Manager's employees, excluding travel time, incurred in discharge of duties connected with the work except for local travel to and from the site of the Work.
- (9) Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the work, and cost less market value of such items used but not consumed which remain the property of Construction Manager.
- (10) Deposits lost for causes other than Construction Manager's negligence, royalty payments and fees for permits and licenses.
- (11) Cost of premiums for additional bonds and insurance required because of changes in the Work.
- (12) Cost of special consultants, including, but not limited to, engineers, architects, testing laboratories, surveyors employed for services specifically related to the Work.
- (13) Any other expenses or changes incurred, with the prior written approval of the Consultant, in the performance of the Work.

#### **5.4 EXCLUSIONS TO COST OF THE WORK:**

Overhead is defined as any and all other costs, not referenced in Article 5, of the Construction Manager and its operation which are not in direct support of the Project. The Construction Manager agrees to furnish and perform, as a part of the Construction Manager's Fee and Overhead/Profit without reimbursement, said overhead items. The term "Cost of the Work" shall not include any of the following:

- 5.4.1 Payroll costs and other compensation of Construction Manager's officers, executives, principals (of partnership and

sole proprietorship), general managers, estimators, purchasing and contracting agents, clerks and other personnel employed by Construction Manager whether at the Project sites or in its principal or a branch office for general administration that are not specifically included in the General Conditions are to be considered administrative costs covered by Construction Manager's fees.

- 5.4.2 Other than those expenses authorized expenses of Construction Manager's principal and branch offices.
- 5.4.3 Any part of Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work and changes against Construction Manager for delinquent payments.
- 5.4.4 Other overhead, general expense costs or charges of any kind and the cost of any item not specifically and expressly included in Article 5.
- 5.4.5 Costs in excess of the Guaranteed Maximum Price.
- 5.4.6 Entertainment and meal expenses and charges of a personal nature.
- 5.4.7 Bonuses, pensions, profit sharing or other special labor charges not included in Article 5.3.2, above.
- 5.4.8 Any outside legal or CITY accounting fees incurred without prior written approval from the City Counsel, which approval is at the sole discretion of the City Counsel.

## **5.5 PROGRESS PAYMENTS:**

- 5.5.1 CONTRACTOR may make Application for Payment for Work completed during the Project at intervals of not more than once a month unless agreed by the Project Manager. Construction Manager's application shall show a complete breakdown of the Project Schedule of Values, and actual cost incurred as of the date of the Application for Payment for the Work completed or, as to General Conditions plus applicable Construction Manager's Fee. Each application shall be accompanied by such supporting evidence as may be reasonably required by the CITY, as more particularly



described in Article 3.5.3 below. Construction Manager shall submit with each Application for Payment, an updated progress schedule acceptable to the CITY and its Scheduling Consultant, either release of liens relative to the Work which is the subject of the Application or consent of the surety as to such payment. Each Application for Payment shall be submitted to the CITY for approval. CITY shall make payment to Construction Manager within thirty (30) days after approval of Construction Manager's Application for Payment and submission of an acceptable updated progress schedule.

- 5.5.2 Five percent (5%) of all monies earned by Construction Manager shall be retained by CITY until completion of the Project and acceptance by CITY in accordance with Article 5.9 hereof, except for the following item: Self-performed Work performed on a cost reimbursement basis, if any. The CITY may retain amounts greater than those set forth above that are the subject of a good faith dispute pursuant to Florida Statute 255.078 (6), the subject of a claim brought pursuant to Section 255.05, Florida Statutes, or otherwise the subject of a claim or demand by the CITY or Construction Manager.
- 5.5.3 CITY may withhold, in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:
  - 5.5.3.1 Defective Construction Manager or subcontractor Work not remedied.
  - 5.5.3.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Construction Manager.
  - 5.5.3.3 Failure of Construction Manager to make payments properly to subcontractors or for material or labor.
  - 5.5.3.4 Damage to another contractor not remedied.
  - 5.5.3.5 Liquidated damages
- 5.5.4 The Schedule of Values, shall list the cost of materials, the cost

of labor, the cost of equipment and the cost of subcontractor Work separately for all the portions of the Work delineated. Each monthly Application for Payment shall be for a sum equal to

(i) that portion of the Cost of the Work equal to the percentage of the Work completed; plus (ii) an appropriate amount of the Construction Manager's Fee as related to the percentage of the Work completed. The calculation of the percentage of the Work completed shall be in accordance with the approved Progress Schedule; provided, however, prior to the date of the Final Request, and unless subject to reduction under Article 5.5.2, the aggregate of the Construction Manager's Fee payments shall not exceed Ninety (90%) percent of the Construction Manager's Fee as stated in Article 5.3.

The Cost of the Work shall be segregated and detailed in a manner satisfactory to the PROJECT MANAGER to evaluate the charges. The Request for Payment shall indicate the percentage of completion of each portion of the Work, and the total Work, as of the end of the period covered by the Application for Payment. The Schedule of Values shall be used as one basis for reviewing the Request for Payment when such amounts are approved.

5.5.5 If the CITY, in its good faith judgment, determines that the portion of the GMP then remaining unpaid will not be sufficient to complete the Work in accordance with the Contract Documents, no additional payments will be due to the Construction Manager hereunder unless and until the Construction Manager, at its sole cost, performs a sufficient portion of the Work so that such portion of the Guaranteed Maximum Price then remaining unpaid is determined by the CITY to be sufficient to complete the Work.

5.6 The Project Manager shall review each such Request for Payment and may make such exceptions, as the PROJECT MANAGER reasonably deem necessary or appropriate.

5.7 CONTRACTOR shall remain solely liable for subcontractor's Work and for any unpaid laborers, material suppliers or subcontractors or

subcontractor in the event it is later discovered that said Work is deficient or that any of said laborers, material suppliers or subcontractors did not receive payments due them on the Project.

- 5.8 After Final Completion of the Work and acceptance thereof by the CITY, the CONTRACTOR shall submit a Final Request For Payment (Final Request) which shall set forth all amounts due and remaining unpaid to the Construction Manager.
- 5.9 Except for the Construction Manager's Fee, General Conditions and Construction Manager's Fee, the Construction Manager shall use the sums paid to it pursuant to this article solely for the purpose of performance of the Work and the construction, furnishing and equipping of the Work in accordance with the Contract Documents and payments of bills incurred by the Construction Manager in performance of the Work.
- 5.10 The Construction Manager shall promptly pay all bills for labor and material performed and furnished by its subcontractors, suppliers and materials providers, in connection with the construction, furnishing and equipping of the Work and the performance of the Work.
- 5.11 **PROJECT CLOSEOUT:**

At the Final Completion of the Project, a Memorandum will be issued in conjunction with a Final Change Order to remove any amounts in excess of the Construction Manager's General Conditions, the Construction Manager's Fee and the Cost of the Work, all subtracted from the GMP with the Savings to be retained by the Owner.

## **ARTICLE 6**

### **CONTINGENCIES AND ALLOWANCES:**

- 6.0 **THE CONSTRUCTION CONTINGENCY:**

An agreed upon sum included in the GMP for the purpose of defraying the Construction Manager's actual approved expenditures for changes requested by the CITY in the 90 percent Construction Documents or Specifications.

Any costs to be applied against the contingency must first be approved by the CITY in writing. The Construction Manager will be required to furnish documentation evidencing the expenditures charged to this Contingency prior to release of funds by the CITY. At Final Completion of the Project, any remaining monies in the Construction Contingency shall vest in the CITY. The Guaranteed Maximum Price shall be reduced in the amount of the Construction Contingency remaining monies, if any.

**ARTICLE 7**  
**DISCOUNTS, REBATES AND REFUNDS**

7.1 All cash discounts obtained on payments made by the Construction Manager shall accrue to the CITY unless the Construction Manager actually advanced its own funds, prior to receipt of funds from CITY, to make the payment giving rise to the discount. When Construction Manager becomes aware that a cash discount may be available to CITY, Construction Manager shall, prior to advancing its own funds, notify PROJECT MANAGER of such opportunity so CITY can make the required payment to achieve the discount for the CITY. Construction Manager shall only advance its own funds if PROJECT MANAGER declines to make the early payment. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to CITY, and Construction Manager shall make provisions so that they may be obtained.

**ARTICLE 8**  
**SUBCONTRACTS AND PURCHASE ORDERS**

8.1 Unless waived in writing for good cause, by the CITY or its PROJECT MANAGER, the Construction Manager must obtain competitive pricing and subcontracts, in compliance with the requirements of this Article, for One Hundred Percent (100%) of the Construction Manager's Direct Construction Cost required under this Contract. All subcontracts and purchase orders shall be awarded according to the following procedure:

The Construction Manager shall prepare for the PROJECT MANAGER's review and approval a list of subcontractors and suppliers for each bid who meet the Construction Manager's schedule of minimum requirements. The Construction Manager shall obtain bids from a minimum of three (3) such subcontractors

for each subcontract, when available. After receiving such bids, the Construction Manager shall analyze them and make recommendations to the PROJECT MANAGER's for awards. When the PROJECT MANAGER has approved the award of any such subcontract or purchase order, the Construction Manager shall contract solely in its own name and behalf, and not in the name or behalf of the CITY, with the specified subcontractor or supplier. The subcontract shall provide that the subcontractor shall perform its portion of the Work in accordance with all applicable provisions of this Contract and the other Contract Documents; that the subcontractor shall be bound to the Construction Manager, to the same extent as the Construction Manager is bound to the CITY, to name the CITY as an additional insured on its comprehensive general liability insurance; that the subcontractor shall provide an insurance certificate evidencing the same; that the Construction Manager shall have the right to terminate the subcontract in the same manner and by the same method as provided for termination of this Contract by the CITY, or as otherwise provided in the subcontract, whichever is more protective of the CITY's interest; and that, in the event this Contract is terminated for any reason, the subcontractor shall, at the CITY's option, perform its subcontract for the CITY, or for a Construction Manager designated by the CITY, without additional or increased cost, provided the subcontractor is paid in accordance with its subcontract. The Construction Manager shall sign and cause each subcontractor to sign an Assignment of Rights under Construction Subcontract. Nothing contained herein shall impose on the CITY an obligation to assume any subcontract or make any payments to any subcontractor to perform, and nothing contained herein shall create any contractual relationship between the CITY and any subcontractor. If the PROJECT MANAGER r's shall approve as the selected subcontractor or supplier a bidder whose bid exceeds that of the bidder recommended by the Construction Manager, whose bid complies with the Contract Documents (the amount by which the bid of the selected subcontractor exceeds the bid of the bidder recommended by the Construction Manager is referred to herein as the "preferred subcontractor cost differential"), then the PROJECT MANAGER may designate that the Guaranteed Maximum Price shall be increased by the amount of the preferred subcontractor cost differential or utilize the Contingency Allowance to fund the cost differential. All subcontracts shall, so far as applicable, contain unit prices and any other feasible formula for use in determination of the cost of changes in the Work.

- 8.2 If the CITY shall designate as the selected subcontractor or supplier a bidder whose bid exceeds that of the bidder recommended by the Construction Manager, whose bid complies with the Contract Documents (the amount by which the bid of the selected subcontractor exceeds the bid of the bidder recommended by the Construction Manager is referred to herein as the preferred subcontractor cost differential), then the PROJECT MANAGER may designate that the Guaranteed Maximum Price shall be increased by the amount of the preferred subcontractor cost differential.
- 8.3 All subcontracts shall, so far as practicable, contain unit prices and any other feasible formula for use in determination of the cost of changes in the Work.

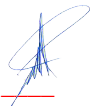
**ARTICLE 9**  
**INSURANCE**

CONTRACTOR shall procure and maintain for the duration of and in full compliance with the contract insurance against claims for injuries to persons and damage to property which may arise from or in connection with their performance hereunder by the Construction Manager, his agents, representatives, employees and subcontractors. The cost of such insurance shall be included in the Construction Manager's bid.

I. Minimum Scope of Insurance

A. Commercial General Liability, including:

1. Premises and Operations.
2. Explosion, Collapse and Underground
3. Products and Completed Operations
4. Blanket Contractual Liability
5. Independent Contractors
- ~~6. Broad Form Property Damage N/A~~
7. Personal Injury Liability
8. Owner's and Contractor's Protective Policy, issued by the same

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insurance company as that issuing liability insurance above (I.A.). The policy must be submitted to the CITY's Risk Manager and be issued in the name of the City of Oakland Park

9. Fire Legal Liability
10. Incidental Medical Malpractice

B. Automobile Liability Insurance, including:

1. Owned Automobiles.
2. Non-owned Automobiles.
3. Hired Automobiles.

C. Workers' Compensation Insurance.

D. Employer's Liability Insurance.

E. Builder's Risk Insurance.

F. Professional Liability Insurance

II. Minimum Limits of Insurance

A. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

B. Auto Liability: \$1,000,000 combined single limit per occurrence for bodily injury and property damage arising from the operations of all Owned Automobiles, Non-owned Automobiles and Hired Automobiles.

C. Workers' Compensation: Workers' Compensation Insurance as required by the State of Florida. If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act.

D. Employer's Liability:  
\$100,000 limit per occurrence,  
\$500,000 annual aggregate for disease,  
\$100,000 limit for disease of an individual employee.

~~E. Inland Marine Builder's Risk Insurance: N/A~~

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The Construction Manager, prior to notice to proceed or

commencement of Work, whichever occurs first, agrees to maintain an Inland Marine Builder's Risk insurance coverage form as approved by the Owner in writing prior to procurement of the Policy.

Coverage shall be written on an All-Risk, Replacement Cost, and Completed Value Form basis in an amount at least equal to one-hundred 100% of the projected completed value of the Work, as well as subsequent modifications of that sum due to Change Orders. This policy shall also include Delay Cost coverage for soft costs, which shall at a minimum include additional expensed for interest, legal, consulting, insurance, architectural and engineering, Construction Manager's General Conditions. The period of indemnity shall not be less than 12 months and the limit of Delay Cost coverage not be less than ten percent (10%) of the projected completed value of the Work and shall be a scheduled limit on the policy in addition to a scheduled limit for the hard cost coverage. The waiting period for Delay cost coverage may not exceed 30 days. Collectively, the scheduled soft cost limit and hard cost limit may equal one hundred percent (100%) of the projected value of the Work, unless the builder's risk carrier requires the Delay Cost coverage to be in addition to the 100% projected value of the Work. Construction Manager agrees to be responsible for reporting increases in the projected completed value of the Work due to Change Orders to its insurance carrier.

The Construction Manager further agrees that any deductible (s) shall not exceed \$150,000, any wind percentage deductible (when applicable) shall not exceed ten-percent (10%); and any flood sublimit shall not be less than 20% of the projected completed value of the Work for this policy.

The Construction Manager agrees to endorse the Inland Marine Builder's Risk insurance with a manuscript endorsement eliminating the automatic termination of coverage in the event the building is occupied in whole or in part, or put to its intended use, or partially accepted by CITY. The manuscript endorsement shall amend the automatic termination clause to only terminate coverage if the policy expires, is cancelled, the CITY's interest in the building ceases, or the building is accepted or insured by the City.

The Construction Manager agrees to endorse the CITY as "Additional



Insured” on the Inland Marine Builder’s Risk Insurance coverage form. The Owner shall be fully responsible for the payment of the deductibles for any loss covered under the Builder’s Risk insurance policy, including without limitation basic deductible, water damage loss and flood and windstorm deductibles.

- F. Professional (Errors & Omissions) Liability of not less than \$1,000,000 per claim, \$1,000,000 Annual Aggregate, or a Combined Single limit. The Construction Manager agrees the policy shall include a minimum three (3) year Discovery (tail) reporting period, and a Retroactive Date that equals or precedes the effective date of the Contract, or the performance of services hereunder. The Construction Manager agrees the Self-Insured-Retention shall not exceed \$25,000. This coverage may be provided on a Per-Project Basis.

### III. Deductibles and Self-Insured Retentions

- A. Deductibles/Self-Insurance Retentions Defined: All deductibles and self-insured retentions must be shown clearly on the Certificates of Insurance and approved by the CITY.
- B. Retention Levels: The CITY has the option to reduce or eliminate any deductible or self- insured retention maintained by the Construction Manager.

### IV. Other Insurance Provisions

The policies shall contain the following provisions:

- A. Additional Insured, Certificate Holder and Breach of Warranty Clause:

All insurances shall include as Additional Insured and Certificate Holder the City of Oakland Park. There are not to be any special limitations on the protection being provided to the CITY, its officials, officers, employees or volunteers.

- B. Contractor's Insurance is Primary:

The Construction Manager's insurance coverages shall be

primary insurance with respect to the CITY's, its officials', officers', employees', and volunteers' insurances. Any insurance and self-insurance maintained by the CITY, its officials, officers, employees, or volunteers shall be excess of the Construction Manager's insurances and shall not contribute with it.

C. Coverage Guaranteed:

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the CITY, its officers, officials, employees or volunteers.

D. Occurrence Basis:

The Construction Manager's insurances shall be on an occurrence basis as opposed to a claims-made basis (other than Construction Manager's Professional Liability Insurance). In other words, claims which occur during the policy period can be reported months or years later and still be paid, if they occur during the policy period. Claims-made policies cover only claims which occur and are made during the policy period. In the event occurrence-based insurance is not available, use of claims-made insurance may be considered acceptable in limited circumstances, subject to written approval by the CITY's Risk Manager.

E. 30 Days Notice:

The following clause shall be included in all policies:

This policy shall not be suspended, voided, or cancelled by either party, or a reduction or revision in coverage or limits of coverage except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the CITY.

F. Separation of Insureds:

The definition of insured shall read as follows: "The insurance afforded applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's liability". The company, in this context, being the Construction Manager's insurance company.

1. If no such definition of the insured is quoted in the insurance, the Construction Manager must provide "Cross Liability Clause" or "Severability of Interests Clause" endorsements for all liability insurances.

G. Bonds:

The following bonds are required:

1. Performance Bond.
2. Labor and Materials Payment Bond

V. Acceptability of Insurance Company

A. Florida State Licensed:

All insurance policies and bonds herein required of the Construction Manager shall be written by a company authorized and licensed to do insurance business in the State of Florida with an A.M. Best rating of AA or better and be executed by agents licensed as agents by the State of Florida.

VI. Verification of Coverage

A. Certificates and Endorsements Provided:

The Construction Manager shall furnish the CITY with a certificate of insurance specifically stating the bid number and title and with original endorsements affecting coverage. The certificates and endorsements must be received and approved before any work commences.

B. Authorized Signatures:

The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Insurance coverage required in these specifications shall be in force throughout the contract. Should the Construction Manager fail to provide acceptable evidence of current insurance within seven (7) days of receipt of written notice at any time during the contract, the CITY shall have the

right to consider the contract breached and justifying termination thereof.

Compliance by the Construction Manager and its subcontractors with the foregoing requirements as to carrying insurance and furnishing copies of the insurance policies shall not relieve the Construction Manager and all subcontractors of their liabilities and obligations under this contract.

If coverage on the certificates of insurance is shown to expire prior to completion of all terms of the contract with the CITY, the Construction Manager shall furnish certificates of insurance evidencing renewal of such coverage to the CITY.

#### VII. Limited Contractual Relationship

Nothing contained in these contract specifications shall be construed as creating any contractual relationship between any of the Construction Manager'S subcontractors or suppliers and the CITY.

The Construction Manager shall be as fully responsible to the CITY for acts and omissions of all subcontractors and suppliers and of all persons employed by the subcontractors and suppliers, as the Construction Manager is for acts and omissions of persons directly employed by the Construction Manager.

##### A. Joint Venture:

The parties agree that this agreement shall be the whole and total agreement between the parties, and the Construction Manager is undertaking its activities as for its sole use and benefit and this agreement or the activities resulting therefrom shall in no way be construed to be a joint undertaking with the CITY, nor is the CITY in any way assuming responsibility or benefits of the Construction Manager's activity. The Construction Manager acts independently and in its own right, risk and responsibilities. The CITY assumes no direction, control, responsibility or liability for the activities of the Construction Manager and, by the execution of this agreement, does not endorse or undertake any activity heretofore conducted by the Construction Manager.

VIII. Other Requirements

- A. Subcontractors' Insurance Requirements: Construction Manager shall include all subcontractors as its insured under its policies or shall furnish separate certificates and all endorsements for each subcontractor's coverages. All coverages for subcontractors shall be subject to all the requirements stated herein.

**ARTICLE 10**  
**INDEMNIFICATION**

10.1 The Construction Manager shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Construction Manager and persons employed or utilized by the Construction Manager in the performance of this Contract. Construction Manager has the duty to defend the City for any claim brought against the City for actions of the Construction Manager with the City having choice of counsel. Construction Manager shall not allow any mechanic lien to be filed against any city property for failure of Construction Manager to pay its subcontractor, in the event lien is filed Construction Manager is responsible for defending City to have lien removed. These provisions shall survive the expiration or earlier termination of this Contract. Nothing in this contract shall be construed in any way to affect the sovereign immunity of the CITY or the rights of the CITY as set forth in Florida Statutes 768.28, as amended from time to time.

**ARTICLE 11**  
**PERFORMANCE AND PAYMENT BOND AND QUALIFICATIONS OF SURETY**

11.1 Bonds:

The following bonds are required:

1. Performance Bond.
2. Labor and Materials Payment Bond.

Acceptability of Insurance Company

A. Florida State Licensed:

All insurance policies and bonds herein required of the Construction Manager shall be written by a company authorized and licensed to do insurance business in the State of Florida and be executed by agents licensed as agents by the State of Florida.

**ARTICLE 12**  
**INDEPENDENT CONTRACTOR**

12.1 In performing, the Construction Manager shall be deemed an independent Construction Manager and not an agent or employee of the CITY. The Construction Manager shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this Contract, unless the Contract Documents give other specific instructions concerning these matters.

**ARTICLE 13**  
**PROJECT RECORDS**

13.1 CITY or its designee shall have the right to inspect and copy the books and records and accounts of Construction Manager and all major subcontractors including but not limited to books, records, correspondence, instructions, drawings, receipts, payment records, vouchers, and memoranda which relate in any way to the Project, and to any claim for additional compensation made by Construction Manager which relate to the Project and to any claim for additional compensation made by Construction Manager. Construction Manager shall preserve and make available to CITY all financial records, supporting documents, statistical records and any other documents which relate to the Project and to any claim for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Statute), if applicable, and, if the Public Records Act is not applicable, for a period of three (3) years following final completion of the Project. During the Project and for the appropriate record retention period, Construction Manager shall provide CITY access to its books and records at Construction Manager's usual place of business upon seventy-two (72) hours written notice. If any audit has been initiated and audit findings have not been resolved at the end

of the end of the retention period of three (3) years, whichever is longer, the books, records and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act (Chapter 119, FL Statute) is determined by CITY to be applicable to Construction Manager's records, Construction Manager shall comply with all requirements thereof. Any incomplete or incorrect entry in such books, records and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

13.1.1 CONTRACTOR's records shall include, but not be limited to accounting records (hard copy, as well as computer readable data), written policies and procedures; subcontractor files (including proposals of successful and unsuccessful bidders and bid recaps), surety files and bond company files, original estimates, estimating work sheets, correspondence, change order files (including, but not limited to, documentation covering negotiated settlements), back charge logs and supporting documentation, general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends and any other supporting evidence deemed necessary by the CITY to substantiate charges related to this Contract (all of the foregoing hereinafter referred to as records).

13.1.2 CONTRACTOR shall require all subcontractors, insurance agents and material suppliers (payees) to keep and maintain comparable records for the same time period and to permit the CITY to review, inspect and audit such records. Construction Manager shall include such requirements in all written subcontracts and purchase orders issued.

13.1.3 If an audit inspection or other examination by the CITY or the CITY's representatives in accordance with this Article, disclose overcharges (of any nature) by the Construction Manager to the CITY in excess of one (1%) percent of the total billings, the cost of the CITY's audit (whether performed by the CITY or outside auditors) shall be reimbursed or paid to the CITY by the Construction Manager. Any adjustments and/or records shall be made within a reasonable amount of time (not to exceed thirty (30) days) from presentation of the CITY findings to the Construction Manager.

## **ARTICLE 14**

### **SURVEY AND AS-BUILT DRAWINGS**

- 14.1 Prior to final payment and as required by the technical specifications (or, in absence of technical specification requirements concurrent with the Final Request for Payment), the Construction Manager shall furnish final as-built drawings (in electronic and hard copy as designated by the PROJECT MANAGER) and surveys and in electronic media utilizing CAD Standards as designated by the PROJECT MANAGER, in addition to three (3) sets of hard copy, showing the exact locations of all structures and underground site utilities installed by Construction Manager, including all water, sewer, gas, fuel, telephone, security and electric lines and main, and locations of all easements for such utilities. Such surveys shall be prepared by a licensed Florida surveyor who shall certify that the Work is installed and erected entirely upon the Project Site and within the building restriction lines, if any, and does not overcharge or encroach upon any easement or right-of-way of others.

## **ARTICLE 15**

### **CONTRACTOR'S RESPONSIBILITY FOR THE WORK**

- 15.1 CONTRACTOR shall accept full responsibility for the Work against all loss or damage of whatsoever nature sustained until final acceptance by CITY and shall promptly repair any damage done from any cause whatsoever.
- 15.2 CONTRACTOR shall be responsible for all materials, equipment and supplies pertaining to the Project. In the event any such materials, equipment and supplies are lost, stolen, damaged or destroyed prior to final acceptance by CITY; Construction Manager shall replace it without cost to CITY. Construction Manager shall be responsible to protect all materials, equipment and supplies, keeping them free from deterioration, weathering, rusting or other action detrimental to the materials.
- 15.3 CITY reserves the right to award other contracts in connection with this Project. Construction Manager shall afford other persons or contractors' reasonable opportunity for the introduction and storage of materials and the execution of Work under such separate contracts. Construction Manager shall properly connect and



coordinate this Work with the Work of any other persons or contractors that might contract separately with CITY.

- 15.4 If any part of Construction Manager's Work depends on proper execution or results upon the Work of any other persons, Construction Manager shall inspect and promptly report to Consultant any defects in such Work that render it unsuitable for such proper execution and results. Construction Manager's failure to so inspect and report shall constitute an acceptance of the other person's Work as fit and proper for the reception of Construction Manager's Work, except as to defects which may develop in other Construction Manager's Work after the execution of Construction Manager's Work.
- 15.5 CONTRACTOR shall conduct its operations and take all reasonable steps to coordinate the prosecution of the Work so as to create no interference or impact on any other contractor on the site. Should such interference or impact occur, and the Construction Manager did not take reasonable steps, the Construction Manager shall be liable to the affected contractor for the cost of such interference or impact.
- 15.6 To ensure the proper execution of subsequent Work, Construction Manager shall inspect the Work already in place and shall at once report to Consultant any discrepancy between the executed Work and the requirements of the Contract Documents.

## **ARTICLE 16**

### **OCCUPATIONAL HEALTH AND SAFETY**

- 16.1 In compliance with Chapter 442, Florida Statutes, any toxic substance listed in Section 38F- 41.03, Florida Administrative Code, delivered as a result of this Project must be accompanied by a Material Safety Data Sheet (MSDS) which may be obtained from the manufacturer. The MSDS must include the following information:
- 16.1.1 The chemical name and the common name of the toxic substance.
- 16.1.2 The hazards or other risks in the use of the toxic substance, including:
- (1) The potential for fire, explosion, corrosion, and reaction;

- (2) The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and
- (3) The primary routes of entry and symptoms of overexposure.

16.1.3 The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.

16.1.4 The emergency procedure for spills, fire, disposal, and first aid.

16.1.5 A description in lay terms of the known specific potential health risks posed by the toxic substance intended to alert any person reading this information.

16.1.6 The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

16.2 The Construction Manager agrees that it shall not knowingly transport to, use, generate, dispose of, or install at the project site any Hazardous Substance, (as defined in Section 16.2.3, except in accordance with applicable Environmental Laws. Further, in performing the Work, the Construction Manager shall not knowingly cause any release of hazardous substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws.

16.2.1 In the event the Construction Manager encounters on the Project sites any Hazardous Substance, or what the Construction Manager reasonably believes to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project Location, in violation of any applicable Environmental Laws, the Construction Manager shall immediately stop Work in the area affected and report the condition to the Consultant and PROJECT MANAGER if in

fact a Hazardous Substance has been encountered and has not been rendered harmless.

16.2.2 The PROJECT MANAGER may direct the Construction Manager by utilization of the GMP Contingency allowance funds to remediate and/or render harmless the Hazardous Substance in accordance with applicable permits then in existence, but the Construction Manager shall not be required to remediate and/or render harmless the Hazardous Substance absent such direction. If the Construction Manager is not so directed, Construction Manager shall not be required to resume Work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless.

16.2.3 For purposes of this Contract, the term "Hazardous Substance" shall mean and include, but shall not be limited to, any element, constituent, chemical, substance, compound or mixture, which are defined in or included under or regulated by any local, state, or federal law, rule, ordinance, by-law, or regulation pertaining to environmental Response, Compensation and Liability Act of 1980 (CERCLA), The Resource Conversation and Recovery Act (RCRA), The Toxic Substances Control Act (TSCA), The Clean Water Act (CWA), the Clean Air Act (CAA), and The Marine Protection Research and Sanctuaries Act (MPRSA), The Occupational Safety and Health Act (OSHA), The Superfund Amendments and Reauthorization Act of 1986 (SARA), or other state super lien or environmental clean-up or disclosure statues including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as Environmental Laws). It is the Construction Manager's responsibility to comply with Article 20 based on the law in effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

**ARTICLE 17**  
**PERMITS, LICENSES AND IMPACT FEES**

- 17.1 The CITY shall obtain all required permits and licenses as required for commencement and completion of this Project. Such permits and licenses, along with any corresponding general and specific conditions and requirements, shall become a part of the contract documents. The Construction Manager shall comply with all conditions and requirements of said permits and licenses. Payment of all such permits and licenses, and impact fees shall be made by the CITY and shall include all Federal, State, and Municipal application, permit, and surcharge fees
- 17.2 Business Tax Receipts must be in effect as required by Florida Statutes 205.065 and must be submitted within ten (10) days of execution of this Contract.
- 17.3 It is Construction Manager's responsibility to have and maintain appropriate Certificate(s) of Competency, valid for the Work to be performed and valid for the jurisdiction in which the Work is to be performed for all persons working on the Project for whom a Certificate of Competency is required.

**ARTICLE 18**  
**PERSONNEL**

- 18.1 All personnel used or employed by the Construction Manager in the performance of the Work shall be qualified by training and experience to perform their assigned tasks. At the request of the CITY the Construction Manager shall not use in the performance of the Work any personnel deemed by the CITY to be incompetent, careless, or unqualified to perform the work assigned to that person him, or otherwise unsatisfactory to the CITY.
- 18.2 The Construction Manager agrees that in the performance of the Work called for by this Contract, it will employ only such labor, and engage subcontractors that employ only such labor, as will not delay or interfere with the speedy and lawful progress of the Project, and as will be acceptable to and work in harmony with all other workers employed on the Project site or on any other building, structure, or other improvement which the Construction Manager or any other contractor may then be erecting or altering on behalf of the CITY.

- 18.3 CONTRACTOR shall provide and pay a livable wage for competent, suitably qualified personnel to perform the work as required by the Contract Documents. Construction Manager shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. Construction Manager shall at all times maintain good discipline and order at the site. The Construction Manager agrees that it shall not employ any labor that will interfere with labor harmony at the Project site or with the introduction and storage of materials and the execution of Work by other contractors or by subcontractors.
- 18.4 CONTRACTOR shall furnish the PROJECT MANAGER on request, resumes of Construction Manager's key personnel involved in the day-to-day Work on the Project.

## **ARTICLE 19**

### **CONTRACTOR'S WARRANTIES**

- 191 CONTRACTOR warrants to CITY that all materials and equipment under this Contract will be new unless otherwise specified and that all of the Work will be of good quality free from faults and defects not inherent in the materials required or specified and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized by the Project Manager may be considered defective. If required by the Project Manager, Construction Manager shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Article 23 herein. Warranties shall be a minimum of one year, with the option to have extended warranties of identified equipment/installation. Warranty period shall commence at Substantial Completion,
- 192 The Construction Manager further represents and warrants:  
That it is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to perform this Contract; that is able to furnish the Materials, and Services; that is experienced in and competent to perform the Work contemplated by this Contract; and it is qualified to do the Work herein and is authorized to do business in the State of Florida.

That the Construction Manager holds a license, permit or other special

license to perform the services included in this Contract, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license.

The Construction Manager agrees that the Work shall be performed in a good and professional manner, free from defects in materials and execution, and that all Materials shall be new and approved by or acceptable to the CITY, except as otherwise expressly provided for in the Contract Documents.

**ARTICLE 20**  
**DEFECTIVE WORK**

- 20.1 The PROJECT MANAGER shall have the authority to reject or disapprove work which the Project Manager finds to be defective. If required by the PROJECT MANAGER, Construction Manager shall promptly either correct all defective work or remove such defective work and replace it with proper, conforming work. Construction Manager shall pay all direct, indirect and consequential costs of such removal or corrections including cost of testing laboratories and personnel. Such costs shall be included in the GMP.
- 20.2 Should Construction Manager fail or refuse to remove or correct any defective work or to make any necessary repairs in accordance with the requirements of the Contract Documents within the time indicated in writing by the PROJECT MANAGER, CITY shall have the authority to cause the defective work to be removed or corrected, or make such repairs as may be necessary at Construction Manager's expense. Any expense incurred by CITY in making such removals, corrections or repairs shall be paid for out of any monies due or which may become due to Construction Manager and deducted from the GMP, or may be charged against the Performance Bond. In the event of failure of Construction Manager to make all necessary repairs promptly and fully, CITY may declare a default.
- 20.3 If, within one (1) year after the date of final completion or such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents, any of the work is found to be defective or not in accordance with the Contract Documents, Construction Manager, after receipt of written notice from CITY, shall promptly correct such defective or nonconforming work within the specified by CITY without cost to

CITY, to do so. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation, which Construction Manager might have under the Contract Documents.

- 204 Failure to reject any defective work or material shall not in any way prevent later rejection when such defect is discovered, or obligate CITY to final acceptance.
- 205 The Construction Manager shall (I) replace any part of the work that fails to conform with the requirements of this Contract that appear during progress of the work on the Project; (II) remedy any defects in the Work due to faulty materials or workmanship which appear within a period of one (1) year from the time of Final Completion of the Work or portions thereof hereunder or within such longer period of time as may be set forth in the Contract Documents or as may be required by law; and (III) replace, repair or restore any parts of the Project or furniture, fixtures, equipment or other items placed therein (whether by the CITY or any other part) that are injured or damaged by any such parts of the Work that do not conform to the requirements of this Contract or are due to defects in the Work. The provisions of this Article shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor or subcontractor of the CITY unless the Construction Manager is acting in such capacity or capacities. The cost of the Construction Manager of performing any of its obligations under Article 5 shall be within the Guaranteed Maximum Price. The Construction Manager's responsibility to make repairs and redo work under this Article 20 is in addition to the Construction Manager's responsibility to the CITY for any other damages of any kind for which the Construction Manager would be legally responsible.
- 206 If the CITY and the Construction Manager deem it inexpedient to require the correction of work damaged or not performed in accordance with the Contract Documents, an equitable deduction from the Contract Price and the Guaranteed Maximum Price shall be made by agreement between the Construction Manager and the CITY. Until such settlement, the CITY may withhold such sums as the CITY deems just and reasonable from monies, if any, due the Construction Manager. If no monies are held by the CITY, reimbursement shall be made to the CITY within thirty (30) days by

the Construction Manager.

- 20.7 The Construction Manager's express warranty herein shall be in addition to, and not in lieu of, any other warranties or remedies the CITY may have under this Contract, at law, or in equity for defective Work.

## **ARTICLE 21**

### **SIGNAGE**

- 21.1 All construction signage located at the project location(s) shall be subject to the prior written approval of the PROJECT MANAGER. The Construction Manager recognizes that all signage may be disallowed, in the PROJECT MANAGER's sole discretion, and that existing signage or advertising on construction field offices, trailers, construction fences, and other construction elements or aids, may be required to be masked or deleted at no cost or expense to the CITY. Such signage will be considered an overhead expense pursuant to Article 5.4 and if allowed shall not be included within the Cost of the Work.

## **ARTICLE 22**

### **PUBLIC ENTITY CRIMES ACT**

- 22.1 CONTRACTOR represents that the execution of this Contract will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Contract and recovery of all monies paid hereto and may result in debarment from CITY's competitive procurement activities.



222 In addition, to the foregoing, Construction Manager further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a public entity crime and that it has not been formally charged with committing an act defined as a public entity crime regardless of the amount of money involved and regardless of whether Construction Manager has been placed on the convicted vendor list.

### **ARTICLE 23**

#### **OWNERSHIP OF CONTRACT DOCUMENTS**

23.1 Drawing, specifications, designs, models, photographs, reports, surveys, and other data submitted by the Construction Manager provided in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is completed or not. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by Construction Manager shall become the property of CITY and shall be delivered by Construction Manager to CITY within seven (7) days of termination of the Contract Documents by either party. Any compensation due to Construction Manager shall be withheld until all documents are received as provided herein.

### **ARTICLE 24**

#### **CONSTRUCTION MANAGER'S REPRESENTATIVE**

24.1 CONTRACTOR shall advise, the CITY, in writing of any limitations on the authority of Construction Manager's representative; otherwise, CONTRACTOR's representative shall be considered to have full authority to execute any and all instruments requiring the Construction Manager's signature and to act on behalf of the Construction Manager with respect to all matters arising out of this Agreement.

### **ARTICLE 25**

#### **RIGHT TO TERMINATE CONTRACT**

25.1 If Construction Manager fails to begin the Work within the (10) calendar days after the Project initiation Date, or fails to perform the

Work with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or it's Construction Manager shall fail to perform any material term set forth in the Contract Documents or if Construction Manager shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, PROJECT MANAGER may give notice in writing to Construction Manager and its Surety of such delay, neglect or default, specifying the same.

If Construction Manager, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, then CITY may upon written certificate from PROJECT MANAGER of the fact of such delay, neglect or default and Construction Manager's failure to comply with such notice, terminate the services of Construction Manager, exclude Construction Manager from the Project site and take the prosecution of the Work out of the hands of Construction Manager, and appropriate or use any or all materials and equipment that are an integral part of the Work on the Project site as may be suitable and acceptable. In such case, Construction Manager shall not be entitled to receive any further payment until the Project is completed.

In addition CITY, may enter into an agreement for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in CITY's sole opinion shall be required for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in CITY's sole opinion shall be required for the completion of the Project in an acceptable manner. All damages, costs and charges incurred by CITY, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to Construction Manager. In case the damages and expenses so incurred by CITY shall exceed the unpaid balance, then Construction Manager shall be liable and shall pay to CITY the amount of said excess.

252 If after notice of termination of Construction Manager's right to

proceed, it is determined for any reason that Construction Manager was not in default, the rights and obligations of CITY and Construction Manager shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth in Section 28.1 below.

- 25.3 This Contract may be terminated for convenience in writing by CITY upon ten (10) days written notice to Construction Manager (delivered by certified mail, return receipt requested) of intent to terminate and the date on which such termination becomes effective. In such case, Construction Manager shall be paid for all work executed and expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by Construction Manager relating to commitments which had become firm prior to the termination. Payment shall include Construction Manager's Fee for work and/or services performed. No payment shall be made for profit for work and/or services that have not been performed.
- 25.4 Upon receipt of Notice of Termination pursuant to Section 25 or 25.1 above, Construction Manager shall promptly discontinue all affected work unless the Notice of Termination directs otherwise and deliver or otherwise make available the CITY all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

## **ARTICLE 26**

### **CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT**

- 26.1 If PROJECT MANAGER fails to review and approve or state in writing reasons for rejection of any Application for Payment within twenty (20) days after it is properly presented, or if CITY fails either to pay Construction Manager within thirty (30) days after presentation to the PROJECT MANAGER by the Construction Manager of any sum certified by PROJECT MANAGER, or to notify Construction Manager in writing of any objection to the Application for Payment, then Construction Manager may give written notice to CITY of such delay, neglect or default, specifying the same. If CITY (where applicable), within a period of ten (10) calendar days after such notice shall not remedy the delay, neglect, or default upon which the notice is based, then Construction Manager may stop work or terminate this

Contract and recover from CITY payment for all work executed and reasonable expenses sustained therein plus reasonable termination expenses. Any objection made by CITY to an Application for Payment shall be submitted to Consultant in accordance with the provisions of Article 27 hereof.

**ARTICLE 27**  
**RESOLUTION OF DISPUTES**

- 27.1 To prevent all disputes and litigation, it is agreed by the parties hereto that Consultant shall decide all questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Contract as to the character, quality amount value of any work done and materials furnished, or proposed to be done or furnished under or by reason of, the Contract Documents and Consultant 's estimates and decisions upon all claims, questions, difficulties and disputes shall be final and binding to the extent provided in Article 30. Any claim, question, difficulty or dispute which cannot be resolved by mutual agreement of PROJECT MANAGER and CONTRACTOR shall be submitted to Consultant in writing within ten (10) calendar days. Consultant shall notify PROJECT MANAGER and Construction Manager in writing of Consultant 's decision within ten (10) calendar days from the date of the submission of the claim, question, difficulty or dispute, unless Consultant requires additional time to gather information or allow the parties to provide additional information. All nontechnical administrative disputes shall be determined by the PROJECT MANAGER pursuant to the time periods provided herein. During the pendency of any dispute and after a determination thereof, Construction Manager, Consultant, and PROJECT MANAGER shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction.
- 27.2 In the event the determination of a dispute under this Article is unacceptable to any of the parties hereto, the party objecting to the determination must notify the other party in writing within ten (10) days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract Price adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) days after Final Completion of the Work, the parties shall participate in mediation to address all objections to any mediator mutually agreed upon by the

parties. Should any objection not be resolved in mediation, the parties retain all their legal rights and remedies provided under State law. If a party objecting to a determination, fails to comply in strict accordance with the requirements of this Article, said party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.

- 273 This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sites, and shall be governed by the laws of the State of Florida. By entering into this Contract, Construction Manager and CITY hereby expressly waive any rights either party may have to trial by jury of any civil litigation related to, or arising out of the Project. Construction Manager, pursuant to Article 11 of this Agreement, shall specifically bind all subcontractors to the provisions of this Contract.

Pending resolution of any dispute arising under this Contract, other than termination hereof, the Construction Manager shall proceed diligently with performance of this Contract and the CITY shall continue to make payments in accordance with the Contract Documents.

## **ARTICLE 28**

### **NOTICES**

28.1 Notices: All notices to be given hereunder shall be in writing, and may be given by depositing the same in the United States Mail addressed to the party to be notified, postpaid, return receipt requested or by delivering the same in person to such party with written receipt of acknowledgement of delivery by a person at the address (s) set forth below. All notices to be given to the parties hereto shall be sent to or made to the addresses shown below. The place for giving notice shall remain the same as set forth herein unless changed in the manner provided in this Article.

For City:

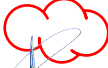
City Manager  
3250 NE 12<sup>th</sup> Avenue  
Oakland Park, FL 33009


With Copy to:

Director, Engineering & Construction Management  
5399 N. Dixie Highway, Suite 3  
Oakland Park, FL 33009

AND, in cases of default,

City Attorney  
3099 East Commercial Blvd, Suite  
200 Fort Lauderdale, FL 33308

  
SCEC \_\_\_\_\_  
C.OP \_\_\_\_\_  
For Construction Manager:  
State Contracting & Engineering Corp.  
5391 N. Nob Hill Road  
Sunrise, FL 33351

  
SCEC \_\_\_\_\_  
C.OP \_\_\_\_\_  
And to Consultant:  
N/A

## **ARTICLE 2**

### **HURRICANE PRECAUTIONS**

29.1 During such periods of time as are designated by the United States Weather Bureau as being a hurricane warning or watch, the Construction Manager shall take all precautions necessary to secure the project site in response to all threatened storm events, regardless of whether the CITY or Consultant has given notice of same. addressed by a Change Order in accordance with Article 4. Suspension of the work caused by a threatened or actual storm event, regardless of whether the CITY has directed such suspension, will entitle the Construction Manager to additional Contract Time as compensable, excusable delay. All of the cost of the preparation for hurricane watch or warning shall be paid by the CITY without fee outside the Guaranteed Maximum Price.

## **ARTICLE 30**

### **OTHER TERMS & CONDITIONS**

- 30.1 Third Party Beneficiaries: Neither Construction Manager nor CITY intend to directly or substantially benefit a third party by this Contract. Therefore, the parties agree that there are no third- party beneficiaries to this Contract and that no third party shall be entitled to asset a claim against either of them based upon this Contract.
- 30.2 Conflicts: Neither Construction Manager nor its employees shall have to hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Construction Manager's loyal and conscientious exercise of judgment related to its performance under this Contract. Construction Manager agrees that none of its employees shall, during the term of this Contract, serve as an adverse or hostile witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her opinion, which is adverse or prejudicial to the interests of CITY in any such pending or threatened legal or administrative proceeding. The limitations of this Article shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding regarding this Contract. Construction Manager agrees to prohibit its subcontractors, by written contract, from having any conflicts as within the meaning of this Article.
- 30.3 Joint Preparation: Preparation of this Contract has been a joint effort of CITY and Construction Manager and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.
- 30.4 Drug Free Workplace: It is a requirement of CITY that it enter into contracts only with firms that certify the establishment of a drug-free workplace. Execution of this Contract by Construction Manager shall also serve, as Construction Manager's required certification that it either has or that it will establish a drug-free workplace.

- 305 Assignment: The Construction Manager shall not assign this Contract or subcontract it as a whole without the written consent of the CITY; nor shall the Construction Manager assign any monies due or to become due to it hereunder, without the previous written consent of the CITY.
- 306 Waiver: No consent or waiver, express or implied, by either party to this Contract to or of any breach or default by the other in the performance of any obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other of future breach or default by such party hereunder, nor deemed to be a modification of this Contract. Failure on the part of any party hereto to complain of any act or failure to act of the other party or to declare the other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party hereunder, provided however this section shall not alter or amend the notice provisions set forth in the Construction Documents including but not limited to, in Article 6. Inspection by, payment by or tentative approval or acceptance by the CITY, or the failure of the CITY to perform any inspection hereunder shall not constitute a final acceptance of the Work or any part thereof and shall not release the Construction Manager from any of its obligations hereunder.
- 307 Construction of Terms: Unless the context clearly intends to the contrary, words singular or plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other. The term "person" shall be deemed to include an individual, corporation, unincorporated organization, partnership, trust, government and governmental agency or subdivision, as the context shall require.
- 308 Captions: The captions used for the Articles of this Contract are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of the intent of this Contract or any Article hereof.
- 309 Entire Agreement; Severability; Amendments: These Contract Documents incorporate and include all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understanding



concerning the subject matter of this Contract that are not contained in the Contract Documents. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document in accordance with Article 4. In the event any provision of the Contract Documents shall be found by a court of competent jurisdiction to be invalid or otherwise unenforceable, the remainder of this Contract shall not be affected thereby and each remaining provision, term, covenant or condition of the Contract Documents shall continue to be effective.

30.10 Counterparts: This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

30.11 Local Conditions and Project Site: Execution of the Contract by the Construction Manager is a representation that the Construction Manager has visited the Project sites, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents. Construction Manager represents that it has performed its own investigation and examination of the Project Work sites and their surroundings and satisfied itself before entering into this Contract as to:

30.11.1 conditions bearing upon transportation, disposal, handling, and storage of materials;

30.11.2 the availability of labor, materials, equipment, water, electrical power, utilities and roads;

30.11.3 uncertainties of weather, flooding and similar characteristics of the site;

30.11.4 conditions bearing upon security and protection of material, equipment, and Work in progress;

30.11.5 the form and nature of the Work site, including the surface and sub-surface conditions;

30.11.6 the extent and nature of Work and materials necessary for the execution of the Work and the remedying of any defects therein; and

30.11.7 the means of access to the site and the accommodations

it may require and, in general, shall be deemed to have obtained all information as to risks, contingencies and other circumstances.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the respective dates under each signature: CITY OF OAKLAND PARK through its authorization to execute same by Commission action on \_\_\_\_\_, day of \_\_\_\_\_, 20 , signing by and through its City Manager, duly authorized to execute same, and \_\_\_\_\_., signing by and through its \_\_\_\_\_, duly authorized to execute same.

**CITY**

ATTEST:

CITY OF OAKLAND PARK

\_\_\_\_\_  
RENEE SHROUT, CITY CLERK

By: \_\_\_\_\_  
DAVID HEBERT, CITY MANAGER

\_\_\_\_\_  
MAYOR

Approved as to legal sufficiency and form by

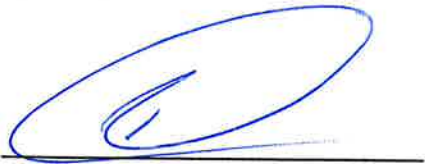
\_\_\_\_\_  
CITY ATTORNEY

*[EXECUTION CONTINUED ON NEXT PAGE]*

If the Company President does not sign the Contract, there must be a Secretary's Certificate Form provided to the City of Oakland Park, Florida indicating designee signing, has the authority to sign.

**CONTRACTOR**

ATTEST:



(Secretary)

State Contracting and Engineering Corporation



By: \_\_\_\_\_  
Paul Carty, President

(Corporate Seal)



Barry Tranklaw - CFO

(Type Name and Title Signed Above)

23 Day of March, 2021.



# ESTIMATE SUMMARY

Conceptual Estimate

## L Shaped Building at Park Place

ESTIMATE NO./REF. SCEC 02.12.21  
 TIME TO COMPLETE (days): 120  
 PROJECT NUMBER: TBD  
 LOCATION/OWNER: Broward/Oakland Park City of Oakl:  
 BID DATE: TBD

1	2	3	4	5	6	7	8	9
Div. No.	CSI Cost Code	Bid Package	Description of Work	Total Bid Amount	Name of Bidder	Unit Measure	Unit	Cost Per Unit
<b>Division 01 - General Requirements</b>								
01	01 00 00	01100	✓ General Conditions	54,816	Estimate	DY	120	456.80
01	-	01450	✓ Testing Services	1	W/ Trades	LS	1	1.00
01	-	00360	✓ Permits	1	By City	-	-	-
<b>Division 02 - Existing Conditions</b>								
02	02 40 00	02220	✓ Selective Demo Mold & Moisture Demo	36,615	Estimate	LS	1	36,615.00
02	02 40 00	02220	✓ Site Demolition		w/Concrete Shell	-	-	-
<b>Division 03 - Concrete</b>								
03	03 30 00	03300	✓ Concrete Shell for Flood Barrier	13,390	SCEC	SF	0	--
<b>Division 05 - Metals</b>								
05	05 50 00	05500	✓ Misc. Metals ( Guard Rails)	2,500	Allowance	LS	1	2,500.00
<b>Division 07 - Thermal &amp; Moisture Protection</b>								
07	07 51 00	07510	✓ Built Up Bituminous Roofing	142,850	Advanced Roofing	SQ	100	1,428.50
<b>Division 08 - Openings</b>								
08	08 11 13	08100	✓ Hollow Metal Doors & Frames	1	None	EA	45	0.02
<b>Division 09 - Finishes</b>								
09	09 90 00	09900	✓ Exterior Painting	27,728	Color Factory	SF	91000	0.30
09	-	-	✓ Build Out	60,712	IGMAR	0	-	-
<b>Division 22 - Plumbing</b>								
22	22 00 00	15400	✓ Plumbing	1	w/Build Out	SF	0	--
<b>Division 23 - Heating Ventilating and Air Conditioning</b>								
23	23 00 00	50114	✓ HVAC -Duct Cleaning	17,060	Duct Detectives	SF	0	--
<b>Division 26 - Electrical</b>								
26	26 00 00	16050	✓ Electrical	3,500	Unpurchased Scope	SF	0	--
<b>Division 31 - Earthwork</b>								
31	31 00 00	02300	✓ Asphalt Patch	2,500	SCEC	AC	1.3	1,923.08
31	31 00 00	02360	✓ Termite Control - Soil Treatment	1	None	SF	18000	0.00
<b>Division 32 - Exterior Improvements</b>								
32	32 00 00	0	✓ Flood Barriers	39,555	Floodproofing	EA	3	13,185.00
<b>Estimate Sub Total Direct Cost =</b>				<b>401,231</b>				
ESTIMATE CONTINGENCY				2.500%	<b>10,031</b>			
GENERAL LIABILITY INSURANCE				1.200%	<b>4,935</b>			
BUILDERS RISK INSURANCE				0.000%	<b>0</b>			*City to Confirm
<b>SUB TOTAL WITH INSURANCE</b>					<b>416,197</b>			
BOND				1.224%	<b>5,096</b>			
<b>SUB TOTAL WITH BOND</b>					<b>421,293</b>			
CM FEE					<b>42,129</b>			
<b>SUB TOTAL WITH FEE</b>					<b>463,422</b>			
<b>Estimate Grand Total =</b>				<b>463,422</b>				



## L Shaped Building at Park Place

ESTIMATE NO./REF: SCEC 02.12.21  
 TIME TO COMPLETE (days): 120  
 PROJECT NUMBER: TBD  
 LOCATION/OWNER: City of Oakland Park

1	2	3	4	5	6	7	8	9	10	11
Div. No.	CSI Cost Code	Enter Quantity	Unit	Description of Work	Unit Cost	Labor Burden	not used	not used	Total Unit w/Tax & Burden	TOTAL
<b>Construction Phase Fee (CM Staff)</b>										
01	01 30 00	0.50	Week	Project Executive	3,200.00	35%			4,320.00	\$ 2,160
01	01 30 05	2	Week	Project Manager	2,500.00	35%			3,375.00	\$ 6,750
01	01 30 15	1	Week	APM/Project Engineer	2,000.00	35%			2,700.00	\$ 2,700
01	01 30 20		Week	Superintendent	2,200.00	35%			2,970.00	\$ -
01	01 30 25	12	Week	Assistant Superintendent	1,500.00	35%			2,025.00	\$ 24,300
01	01 30 30	0.50	Week	Project Coordinator	1,200.00	35%			1,620.00	\$ 810
01	01 30 35		Week	Project Accountant	1,900.00	35%			2,565.00	\$ -
01	01 30 40	0.50	Week	Safety/Quality Control	2,200.00	35%			2,970.00	\$ 1,485
01	01 30 50		Week	LEED Coordinator	1,750.00	35%			2,362.50	\$ -
									-	\$ -
<b>Subtotal Direct Supervision CM Staff</b>										<b>\$ 38,205</b>

Div. No.	CSI Cost Code	Enter Quantity	Unit Measure	Description of Work	Unit Cost				Total Unit w/Tax	TOTAL
<b>General Conditions</b>										
<b>Support - Field Staff</b>										
01		1	Month	Vehicle and Mileage - PM	1,000.00				1,000.00	\$ 1,000
01		3	Month	Vehicle and Mileage - Super	1,000.00				1,000.00	\$ 3,000
01			Month	Vehicle and Mileage - Assistant Super	1,000.00				1,000.00	\$ -
01		3	Month	Communications (cellular)	400.00				400.00	\$ 1,200
01	01 52 20		Month	Field Office Rental	1,000.00				1,000.00	\$ -
01	01 52 21		LS	Field Office Setup/Removal	3,000.00				3,000.00	\$ -
01	01 52 23		1	Field Office Furniture	1,000.00				1,000.00	\$ -
01	01 43 27		LS	Restore Staging Area					-	\$ -
	01 52 26		Month	Computer Systems	500.00				500.00	\$ -
01	01 31 02	3	Month	Postage & Courier	50.00				50.00	\$ 150
01	01 31 01	3	Month	Office Supplies	106.00				106.00	\$ 318
01	01 51 40	8	Weeks	Water, Ice and Cups	50.00				50.00	\$ 400
01	01 35 02	3	Month	Safety Supplies	79.50				79.50	\$ 239
01	01 52 16	3	Month	First Aid Supplies	79.50				79.50	\$ 239
01	01 35 03	1	Each	Fire Extinguishers	88.50				88.50	\$ 89
			LS	Copier/Printer/Fax	250.00				250.00	\$ -
01	01 30 03	1	LS	Blueprints & Copies	1,000.00				1,000.00	\$ 1,000
<b>Subtotal General Conditions</b>										<b>\$ 7,634</b>

### Division 01 - General Requirements

<b>Field Office &amp; Yard</b>										
01	01 74 13	4	Week	Daily Cleanup	990.00	45%			1,435.50	\$ 5,742
01	01 95 02		Week	General Purpose Labor	900.00	45%			1,305.00	\$ -
01	01 95 03		Week	General Purpose Carpenter	1,100.00	45%			1,595.00	\$ -
01	01 43 27		LS	Restore Staging Area					-	\$ -
01	01 52 13		Month	Temporary Storage Containers	175.00				175.00	\$ -
01	01 52 13		Each	Temporary Storage (Delivery/Pickup)	300.00				300.00	\$ -
01	01 55 23		SY	Temporary Roads	15.00				15.00	\$ -
01	01 56 23		LS	Barricades	500.00				500.00	\$ -
01	01 56 26	300	LF	Temporary Fencing	3.50				3.50	\$ 1,050
01	01 56 26		Each	Temporary Fence Gates	600.00				600.00	\$ -
01	01 56 29		LF	Temporary Wind Screen	3.00				3.00	\$ -
01	01 56 39		Each	Tree Protection	165.00				165.00	\$ -
01	01 57 13		LF	Silt Fencing	3.00				3.00	\$ -
01	01 58 13		LS	Job Signs	1,000.00				1,000.00	\$ -



L Shaped Building at Park Place

ESTIMATE NO./REF: SCEC 02.12.21  
 TIME TO COMPLETE (days): 120  
 PROJECT NUMBER: TBD  
 LOCATION/OWNER: City of Oakland Park

1	2	3	4	5	6	7	8	9	10	11
01	01 32 33	3	Month	Progress Photographs	75.00				75.00	\$ 225
01	01 51 13		Month	Electric Charges	500.00				500.00	\$ -
01	01 41 22		Month	Temp Electric (Start up)	2,000.00				2,000.00	\$ -
01	01 41 22		LS	Temp Electric Hookup (FP&L)	500.00				500.00	\$ -
01	01 51 19	3	Month	Portable Toilets	170.00				170.00	\$ 510
01	01 51 36		Month	Water Charges	100.00				100.00	\$ -
01	01 51 36		LS	Water HOOK UP	500.00				500.00	\$ -
01	01 74 19	1	Load	Trash Dumpsters & Fees	450.00				450.00	\$ 450
01	01 35 13		LS	ID Badges					-	\$ -
01	01 35 53		Day	Security Guard Services					-	\$ -
01	01 35 01		Each	Safety Inspections	450.00				450.00	\$ -
01	01 35 04		LF	Safety Rails					-	\$ -
01	01 54 05		LS	Small Tools				-	-	\$ -
01	01 54 01		LS	Scaffolding				-	-	\$ -
01	01 95 01		LS	Misc. GC Expense	1,500.00				1,500.00	\$ -
01	01 45 26		LS	Permit Fees					-	\$ -
01	01 95 06		LS	Living Expenses					-	\$ -
01	01 74 23	1	LS	Final Cleaning	1,000.00				1,000.00	\$ 1,000
01	01 74 24		SF	Waxing Floors					-	\$ -
01	01 54 02		LS	Material Unloading					-	\$ -
01			LS	Bid Advertising Cost					-	\$ -
01	01 31 05		LS	Travel Expense (Tolls)					-	\$ -
01			LS	Misc. Grading/Site Cleanup	1,000.00				1,000.00	\$ -
01	01 74 25		LS	Trash Chutes					-	\$ -
01			LS	Pressure Cleaning					-	\$ -
01	01 45 16		LS	Quality Control Program					-	\$ -
01	01 32 16		LS	CPM Consultant					-	\$ -
01	01 32 23		LS	Survey & Layout	7500.00				7,500.00	\$ -
01	01 45 23		LS	Testing Fees					-	\$ -
<b>Subtotal General Requirements</b>										<b>\$ 8,977</b>
<b>TOTAL</b>										<b>54,816</b>

**EXHIBIT B**

**THIS STANDARD CONTRACT ADDENDUM** is made and entered into this 23 day of March, 2021, by and between the CITY OF OAKLAND PARK, a Florida

municipality, hereinafter referred to as the "City", and State Contracting & Engineering Corp., hereinafter referred to as "Contractor", concerning that certain agreement entitled L-Shaped Building at Park Place, dated 3/23/2021 ("Agreement").

**WITNESSETH:**

**WHEREAS**, Section 119.0701, Fla. Stat., requires that certain public agency contracts must include certain statutorily required provisions concerning the Construction Manager's compliance for Florida's Public Records Act; and

**WHEREAS**, Section 768.28, Fla. Stat., sets forth certain mandatory limitations on indemnification and liability for Florida public agencies; and

**WHEREAS**, Florida law requires that public agency contracts be subject to non- appropriation and thereby contingent upon appropriation during the public agency's statutorily mandated annual budget approval process.

**NOW, THEREFORE**, in consideration of the covenants set forth herein, the parties agree to this addendum as follows:

1. **Amendment.** This Addendum hereby amends and supplements the terms of the Agreement. In the event of a conflict between the terms of the Agreement and terms of the Addendum, the terms of the Addendum shall prevail.
2. **Public Records Compliance. Construction Manager** agrees that, to the extent that it may "act on behalf" of the City within the meaning of Section 119.071(1)(a), Florida Statutes in providing its services under this Agreement, it shall:

- (a) Keep and maintain public records required by the public agency to perform the service.
- (b) Upon request from the public agency's custodian of public records, provide the public agency 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 in this chapter or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Construction Manager does not transfer the records to the public agency.
- (d) Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Construction Manager or keep and maintain public records required by the public agency to perform the service. If the Construction Manager transfers all public records to the public agency upon completion of the contract, the Construction Manager shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Construction Manager keeps and maintains public records upon completion of the contract, the Construction Manager shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- (E) PURSUANT TO SECTION 119.0701(2)(A), FLA. STAT., IF THE CONSTRUCTION MANAGER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSTRUCTION MANAGER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**



Renee M. Shroul, CMC City Clerk  
3650 NE 12th Avenue  
Oakland Park, FL 33334

3. **Public Records Compliance Indemnification. Construction Manager** agrees to indemnify and hold the City harmless against any and all claims, damage awards, and causes of action arising from the Construction Manager's failure to comply with the public records disclosure requirements of Section 119.07(1), Florida Statutes, or by Construction Manager's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Construction Manager authorizes the public agency to seek declaratory, injunctive, or other appropriate relief against Construction Manager in Broward County Circuit Court on an expedited basis to enforce the requirements of this section.
4. **Compliance/Consistency with Section 768.28, Fla. Stat.** Any indemnification by City specified in the Agreement shall not be construed as a waiver of City's sovereign immunity, and shall be limited to such indemnification and liability limits consistent with the requirements of Section 768.28, Fla. Stat. and subject to the procedural requirements set forth therein. Any other purported indemnification by City in the Agreement in derogation hereof shall be void and of no force or effect.
5. **Non-appropriation.** City's performance and obligation to pay under this Agreement is contingent upon an appropriation during the City's annual budget approval process. If funds are not appropriated for a fiscal year, then the Construction Manager shall be notified as soon as is practical by memorandum from the City Manager or designee that funds have not been appropriated for continuation of the Agreement, and the Agreement shall expire at the end of the fiscal year for which funding has been appropriated. The termination of the Agreement at fiscal year end shall be without penalty or expense to the City subject to the City paying all invoices for services rendered during the period the Agreement was funded by appropriations.
6. **Venue and Jurisdiction.** Notwithstanding any of other provision to the contrary, this Agreement and the parties'

actions under this Agreement shall be governed by and construed under the laws of the state of Florida, without reference to conflict of law principles. As a material condition of this Agreement, each Party hereby irrevocably and unconditionally: i) consents to submit and does submit to the jurisdiction of the Circuit Court in and for Broward County, Florida for any actions, suits or proceedings arising out of or relating to this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed and delivered this instrument on the days and year indicated below and the signatories below to bind the parties set forth herein.

**Construction Manager:**



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**Print Name:** Paul Carty

**Title:** President

**Company:** State Contracting & Engineering Corp.

**City of Oakland Park**

**Print Name:**

**EXHIBIT C**

**Certification Regarding  
Debarment, Suspension, Ineligibility  
And Voluntary Exclusion**

**Subcontractor Covered Transactions**

- (1) The prospective subcontractor, \_\_\_\_\_, of the Sub-Recipient certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the Sub-Recipient's subcontractor is unable to certify to the above statement, the prospective subcontractor shall attach an explanation to this form.

**SUBCONTRACTOR**

\_\_\_\_\_  
By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sub-Recipient's Name

\_\_\_\_\_  
DEM Contract Number

\_\_\_\_\_  
FEMA Project Number