



City of Mount Dora
510 North Baker Street
Mount Dora, Florida 32757
352-735-7126

Mount Dora City Council
Mount Dora City Hall Board Room
510 North Baker Street, Mount Dora, Florida 32757
May 7, 2024, 6:10 PM

or as soon thereafter as can possibly be held following the 6 pm City Council Workshop

AGENDA

CALL TO ORDER

MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATIONS

- | | |
|--|---|
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| 4. Mount Dora Fun Fact | |

PUBLIC COMMENT

- This is the time for the public to come forward with any comments on any subject related to City business that is not listed on the agenda. Please complete a speaker card and provide it to the City Clerk prior to the meeting.
- Please clearly state your name and address for the record. If you are part of a group, please designate a speaker. Please address all comments to the Mayor.
- If you are asking a question, an answer may or may not be given at the end of your comment. We will try to answer your question at the time asked. However, there may be times when the City will need to conduct research prior to providing an answer.
- Please limit your comment to 3 minutes or less.
- Thank you for your interest in our City.

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1. Budget Calendar Revision 345
2. Mount Dora Sister Cities Association (MDSCA)

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

COMMUNICATIONS AND REPORTS

- Councilmember John Cataldo
- Councilmember Dennis Dawson
- Councilmember Cal Rolfson
- Councilmember Nate Walker
- Councilmember Doug Bryant
- Vice-mayor Marc Crail
- Mayor Crissy Stile

UPCOMING MEETING DATES

- Tuesday, May 21, 2024, 6:00 PM, Regular Session
- Tuesday, June 4, 2024, 6:00 PM, Regular Session
- Monday, June 10, 2024, 6:00 PM, Budget Workshop
- Tuesday, June 18, 2024, 6:00 PM, Regular Session

ADJOURNMENT

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE AT THIS MEETING WITH RESPECT TO ANY MATTER CONSIDERED AT ANY MEETING OR HEARING, SUCH PERSON MAY NEED A RECORD OF THESE PROCEEDINGS FOR SUCH PURPOSE, A PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. VERBATIM RECORD WILL NOT BE PROVIDED BY THE CITY OF MOUNT DORA.

NOTICE: IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CITY CLERK AT LEAST 48 HOURS PRIOR TO THE PROCEEDINGS. TELEPHONE (352) 735-7126 FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICE NUMBERS, (800) 955-8771 (TDD) OR (800) 955-8770 (VOICE) FOR ASSISTANCE.



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: 2024 Building Safety Month Proclamation

Introduction:

This is a request for the Proclamation recognizing Building Safety Month 2024 to be read into record.

Discussion:

Building Safety Month is an international campaign celebrated in May to raise awareness about building safety. The International Code Council, its members, and a diverse partnership of professionals from the building construction, design, and safety communities come together with corporations, government agencies, professional associations, and nonprofits to promote building safety through proclamations, informational events, legislative briefings, and more. The City supports Building Safety Month because the residents, businesses, and visitors understand the need for safe and sustainable structures where we live, work, and play.

All communities need building codes to protect their citizens from disasters like fires, weather-related events, and structural collapse. Building codes are society's best way of protecting homes, offices, schools, manufacturing facilities, stores, and entertainment venues. Code officials work day in and day out to keep the public safe.



Budget Impact:

N/A

Strategic Impact:

GOAL 1: Economic Development

GOAL 2: Infrastructure / Public Safety

Recommendation:

Presentation only.

Attachment(s):

1. Proclamation Building Safety Month May 2024

Prepared by: Vince Sandersfeld, Acting City Manager

Reviewed by: Jeanann Hand, City Clerk
Vince Sandersfeld, Acting City Manager

Approved - 4/23/2024

Final Approval - 4/24/2024



PROCLAMATION

WHEREAS, Mount Dora is committed to recognizing that our growth and strength depend on the safety and essential role our homes, buildings and infrastructure play, both in everyday life and when disasters strike, and;

WHEREAS, our confidence in the resilience of these buildings that make up our community is achieved through the devotion of vigilant guardians—building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers, plumbers and others in the construction industry—who work year-round to ensure the safe construction of buildings, and;

WHEREAS, these guardians are dedicated members of the International Code Council, a nonprofit that brings together local, state, territorial, tribal and federal officials who are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work and play, and;

WHEREAS, these modern building codes include safeguards to protect the public from hazards such as hurricanes, tornadoes, wildland fires, and floods, and;

WHEREAS, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown protectors of public safety—our local code officials—who assure us of safe, sustainable and affordable buildings that are essential to our prosperity, and;

WHEREAS, *“Mission Possible”* the theme for Building Safety Month 2024, encourages us all to raise awareness about the importance of building codes in ensuring safety in the spaces we live, work, play, and learn.

NOW, THEREFORE, I, Crissy Stile, Mayor of the City of Mount Dora, Florida, do hereby proclaim May 2024 as

BUILDING SAFETY MONTH

In the City of Mount Dora, and hereby encourage all citizens to join us as we participate in Building Safety Month activities.

IN WITNESS WHEREOF, I hereunto set my hand and cause the Seal of the City of Mount Dora to be affixed this 7th day of May, 2024.

Crissy Stile, Mayor



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: 2024 Historic Preservation Month Proclamation

Introduction:

This is an opportunity for Mayor Stile to read the 2024 Historic Preservation Month Proclamation into the record.

Discussion:

May 2024 is dedicated to National Preservation Month. Also known as Historic Preservation Month, the month celebrates the nation's heritage through historic places. Organizations across the country promote a variety of activities on the local, state, and national levels. The attached proclamation recognizes the importance and heritage of Mount Dora.

Budget Impact:

N/A

Strategic Impact:

N/A

Recommendation:

The Mayor read the proclamation into the record.

Attachment(s):

1. 2024 Historic Preservation Month Proclamation

Prepared by: Jeanann Hand, City Clerk

Reviewed by: Vince Sandersfeld, Acting City Manager

Final Approval - 4/23/2024



PROCLAMATION

WHEREAS, historic preservation is an effective tool for promoting sustainable development, revitalizing neighborhoods, fostering local pride, promoting tourism, and maintaining community character; and

WHEREAS, the City of Mount Dora conducted its first comprehensive survey of historic properties in 1987, thereby laying the groundwork for recording historic properties with the State of Florida's Division of Historical Resources data base, and ultimately adopting our Historic Preservation Ordinance in 1996; and

WHEREAS, the City of Mount Dora was awarded Certified Local Government (CLG) status in accordance with requirements of the State of Florida's Division of Historical Resources, Bureau of Historic Preservation in 1998; and

WHEREAS, the Mount Dora Historic District was added to the National Register of Historic Places on October 1, 2009; and

WHEREAS, the National Trust for Historic Preservation established May as National Historic Preservation Month in 1973 to promote historic places for the purpose of instilling national and community pride, promoting heritage tourism, and showing the social and economic benefits of historic preservation; and

WHEREAS, Historic Preservation Month can instill awareness of the local historically significant buildings and landmarks to the residents of Mount Dora and surrounding communities.

NOW, THEREFORE, I, Crissy Stile, Mayor of the City of Mount Dora, Florida, do hereby proclaim May 2024 as National Historic Preservation Month in the City of Mount Dora, and encourage all citizens, businesses, and institutions to join their fellow citizens across the United States in recognizing and participating in this special observance.

IN WITNESS WHEREOF, I hereunto set my hand and cause the Seal of the City of Mount Dora to be affixed this 7th day of May, 2024.

Crissy Stile, Mayor



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: Mount Dora Community Resource and Recreation Center

Introduction:

Discussion:

The Planning and Development Department staff will provide an update and status of the Mount Dora Community Resource and Recreation Center

Budget Impact:

Strategic Impact:

Recommendation:

Informational

Attachment(s):

Prepared by: Vince Sandersfeld, Acting City Manager
Reviewed by: Adam Sumner, CRA Administrator
Jeanann Hand, City Clerk
Vince Sandersfeld, Acting City Manager

Approved - 4/30/2024
Approved - 4/30/2024
Final Approval - 4/30/2024



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: Appointment of Mr. Juan Perez to the Northeast CRA Advisory Board (District 3)

Introduction:

This is a request for the City Council to make an appointment to the Northeast CRA Advisory Board.

Discussion:

Pursuant to the City's Code of Ordinances, Advisory Board and Commission members serve two-year terms and may be reappointed for additional terms. The Northeast CRA Advisory Board has a vacancy in District 3. An appointee has been proposed for District 3. The proposed appointee's application is attached.

District 3 Councilmember Dennis Dawson
District 3 Proposed Appointment: Juan Perez

Budget Impact:

N/A

Strategic Impact:

N/A

Recommendation:

Council consider the appointment of Mr. Perez to the Northeast CRA Advisory Board.

Attachment(s):

1. Perez.Northeast CRA.Online Form Submittal_ Board Application.04.09.2024

Prepared by: Jeanann Hand, City Clerk

Reviewed by: Vince Sandersfeld, Acting City Manager

Final Approval - 4/24/2024

From: noreply@civicplus.com
To: [Hand, Jeanann; Clerk](#)
Subject: Online Form Submittal: Board Application
Date: Wednesday, April 10, 2024 8:47:32 PM

**** This message originated outside of the City of Mount Dora network. Please think before you click. ****

Board Application

City Clerk
510 North Baker Street
Mount Dora, FL 32757
(352) 735-7142 Office

Application to Serve as a Board or Committee Member for the City of Mount Dora
Please complete all of the date fields listed below.

First Name	Juan E.
Last Name	Perez
Address1	2005 Donnelly Place
Address2	<i>Field not completed.</i>
City	Mount Dora
State	Fl.
Zip	32757
Phone Number	954-559-8520
Email Address	tainodial@aol.comNorth East
Provide a brief statement relating to your education, experience and reason for wishing to serve	I attended Manhattan College Riverdale, N.Y. and New York University. I recently retired from the healthcare field after 40 years of service, and currently volunteer as a Guardian ad Litem for the State of Florida,Fifth Judicial Circuit Court. I have devoted my entire adult life to serving others, and now that I'm retired I wish to continue in service to my community.
Resume or additional attachments (not required)	<i>Field not completed.</i>

Boards on which you wish to serve Northeast CRA

Upon Completion
This form will be submitted to the City Clerk's Office.

Email not displaying correctly? [View it in your browser.](#)



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: Request Approval of Amendment 3 to the Agreement between the City of Mount Dora and Bellmore Enterprises Incorporated related to Underground Duct-Line Installation.

Introduction:

This request is for City Council to approve Amendment 3 to the contract agreement for Underground Duct-Line Installation with Bellmore Enterprises Incorporated. This amendment provides an extension of the contract for one additional year.

Discussion:

On September 19th, 2019 contract agreement with Bellmore Enterprises Incorporated was approved by Council through competitive Bid # ITB-19-PW-031. The term of this agreement extended from October 1, 2019 through October 1, 2022, and may be extended when in the best interest of the City. On May 17, 2022 City Council approved first amendment to extend the contract to October 1, 2023. This amendment included a 13% increase in material and labor rates. On October 17th, 2023 City Council approved second amendment to extend the contract to October 1, 2024. This included a 4% increase to one line item of the contract.

This request is for approval of contract Amendment 3, the third year of extension beginning October 1, 2024 to October 1, 2025. Bellmore has agreed to extend the current rates to issued estimates within the current and contract extension period if so approved by City Council. Competitive rates were verified by two areas surrounding contracts.

The City Electric Department utilizes Bellmore to provide and install conduits for all the Electric Distribution System's underground expansion, including all new electric service development requests. The Electric department plans to issue four large construction estimates to meet 2024 development requests which are planned for construction during 2024 and 2025. These construction estimates include conduit materials and installation by Bellmore. The first estimate includes the Mount Dora Groves South Phase II, which has indicated payment in April 2024, for a new electric service extension in the amount of \$1,172,669.16. This estimate includes conduit materials and installation estimated by Bellmore in the amount of \$299,509.00. Additional 2024

Electric Service development pending requests include The Mount Dora Hotel Center, The Yardley at Mount Dora Groves, and the Mount Dora Commercial Center. These developers have also indicated power requirements within the 2025 time-frame.

Bellmore Enterprises has agreed to extend existing pricing for this term if so approved by council. The Electric department conducted a rate review of two equivalent contracts in the surrounding area, and found the pricing extended from Bellmore to be 40-63% lower.

Budget Impact:

Budget impact will only occur as the result of a qualifying project or event. Funds have been appropriated for this purpose in the adopted FY 2023-24 CIP and the FY 2023-2024 CIP, 410-2040-531-46.01 410-2040-531.52-01, 2024 and 2025 developer reimbursed projects. Upon the occurrence of other qualifying projects, funding will be identified from the CIP budget or a budget amendment will be prepared for Council authorization pursuant to City policy.

Strategic Impact:

Infrastructure – This contract is critical to improving the electrical infrastructure by undergrounding the lines based on CIP budget.

Recommendation:

City Council contract amendment three(3), the third year of extension beginning October 1, 2024 to October 1, 2025.

Attachment(s):

1. 1_RES 2019-135 Bellmore Contract Approval_9.19.2019
2. 2_EXECUTED_First Amendment_Bellmore_5.17.2022
3. 3_EXECUTED_Second_Amendment_Bellmore_10.17.2023
4. Third Amendment to Bellmore Agreement

Prepared by: Liz Massar, Administrative Coordinator

Reviewed by: Wayne Zimmerman, Deputy Electric Utility Director
Steve Langley, Electric Utility Director
Aneta Barton, Budget Director
City Attorney, City Attorney
Jeanann Hand, City Clerk
Vince Sandersfeld, Acting City Manager

Approved - 4/1/2024

Approved - 4/17/2024

Approved - 4/19/2024

Approved - 5/1/2024

Approved - 5/1/2024

Final Approval - 5/1/2024



**CITY OF
MOUNT
DORA**

**510 N. Baker St.
Mount Dora, FL 32757
352-735-7126**

DATE: September 19, 2019

TO: Honorable Mayor and City Council Members

FROM: Robin R. Hayes, City Manager

SUBJECT: Resolution No. 2019-135 Award of Contract for ITB 19-PW-031 Underground Duct-line Services

Introduction:

This is a request for City Council to approve Resolution No. 2019-135, a contract for Underground Duct-line installation with Bellmore Enterprises Inc.

Discussion:

From time to time underground conversion projects are part of the Capital Improvement Plan for the Electric Utility. Also, there may be times when damaged underground direct-buried cable needs to be repaired. In order to underground power lines, it is industry practice to place the underground cable in conduit. This allows for quicker repairs, meaning less outage time and longer lasting cable. This contract will be utilized to install various sizes of conduit at various underground depths as needed by the Electric Utility.

The City of Mount Dora Purchasing Division solicited proposals from duct-line contractors that perform this type of work. Bellmore Enterprises Inc. submitted the lowest responsive bid. The bid provides for unit costs to bore or dig various size conduits at various depths. This contract will primarily be used for more substantial duct-line work or work requiring specialized equipment that is beyond the City's resources.

Work conducted under this contract is likely to exceed the \$5,000 written quote or the \$35,000 bid threshold. Having this contract in place allows the City to adhere to the Purchasing Policy while expediting enhancements with better pricing to the electric infrastructure. Larger projects will be brought back to Council for approval with appropriate funding. Pricing for projects will be based on a unit price basis (see Bellmore Enterprises Proposal Attachment #3) as appropriate. Final costs, per project, will be determined by the project scope and utilizing the unit pricing multiplied by actual quantities.

Budget Impact:

Budget impact will only occur as the result of a qualifying project or event. Funds have been

ATTACHMENT #1

Office of the City Manager Memorandum -- Page 2 of 2

appropriated for this purpose in the adopted FY 2018-19 CIP and the FY 2019-2020 CIP, 410-5319-563-00.00 EL1902, 410-5319-563-00.00 EL0205, or 410-5319-563-00.00 EL0804. Upon the occurrence of other qualifying projects, funding will be identified from the CIP budget or a budget amendment will be prepared for Council authorization pursuant to City policy.

Strategic Impact:

Infrastructure – This contract is critical to improve the Electric infrastructure by undergrounding the lines based on CIP budget.

Recommendation City Council approve Resolution No. 2019-135.

Attachment(s):

1. Invitation to Bid
2. Notice of Intent To Award
3. Bellmore Enterprises Proposal

Prepared by: Rose Laquaglia-Folan, Administrative Assistant

Reviewed by: Steve Langley, Deputy Electric Director
Marilyn Douglas, Purchasing Manager
Matt Dickey, Finance Director
Gwen Johns, City Clerk
Misty Sommer, Economic Development Coordinator
Robin R. Hayes, City Manager

Approved - 8/23/2019

Approved - 8/23/2019

Approved - 8/23/2019

Approved - 9/12/2019

Approved - 9/12/2019

Final Approval - 9/13/2019

ATTACHMENT #1

BIDDER'S CHECK LIST

IMPORTANT: Please read carefully, sign in the spaces indicated and return with your Bid.

Bidder should check off each of the following items as the necessary action is completed:

- ☐ All applicable forms have been signed and included
- ☐ Any addenda have been signed and included.
- ☐ The mailing envelope has been addressed to:

City of Mount Dora
Purchasing Department – City Warehouse
1501 Robie Avenue
Mount Dora, Florida 32757

- ☐ The mailing envelope **must be sealed and marked** with Bid Number “ITB# 19-PW-031 Bid Title “Underground Duct-Line Installation Services” and Due Date “August 19, 2019 @ 3:00 pm”
- ☐ The Bid will be mailed or delivered in time to be received no later than the specified due date and time. (Otherwise Bid cannot be considered.)

ALL COURIER-DELIVERED BIDS MUST HAVE THE ITB NUMBER AND BID NAME ON THE OUTSIDE OF THE COURIER PACKET

BELLMORE ENTERPRISES INC

Company

Authorized Signature

DARCY BELLEMORE - PRESIDENT

Printed Name & Title

BELLMOREINC@AOL.COM

Email

16019 REDINGTON DRIVE

Address

REDINGTON BCH, FL 33708

City, State, Zip Code

(727)224-1584

Telephone No.

Fax No.

ATTACHMENT #1

CONFLICT OF INTEREST AFFIDAVIT

By the signature below, the vendor (employees, officers and/or agents) certifies, and hereby discloses, that, to the best of their knowledge and belief, all relevant facts concerning past, present, or currently planned interest or activity (financial, contractual, organizational, or otherwise) which relates to the proposed work; and bear on whether the vendor (employees, officers and/or agents) has a possible conflict have been fully disclosed.

Additionally, the vendor (employees, officers and/or agents) agrees to immediately notify in writing the Finance Director, or designee, if any actual or potential conflict of interest arises during the contract and/or project duration.

BELLMORE ENTERPRISES INC

Company

[Signature]

Authorized Signature

DARCY BELLEMORE - PRESIDENT

Printed Name & Title

BELLMOREINC@AOL.COM

Email

16019 REDINGTON DRIVE

Address

REDINGTON BCH, FL 33708

City, State, Zip Code

(727)224-1584

Telephone No.

Fax No.

State of Florida

City of Pine Hills Park

SUBSCRIBED AND SWORN to before me this 17th day of August, 2019, by Darcy Bellemore, who is personally known to me to be the N/A for the vendor, OR who produced the following identification:

Driver license
[Signature]

Notary Public



Tiffany Sanford
State of Florida

My Commission Expires 07/01/2022
Commission No. GG 207692

My Commission Expires: 07/01/2022

ATTACHMENT #1

Vendor Certification Regarding Scrutinized Companies' List

Respondent Vendor Name: BELLMORE ENTERPRISES INC

Name of Company BELLMORE ENTERPRISES INC

FEIN: 59-3693642

Authorized Representative's Name and Title DARCY BELLEMORE - PRESIDENT

Address: 16019 REDINGTON DRIVE REDINGTON BCH, FL 33708

Phone Number: (727)224-1584 Email Address: BELLMOREINC@AOL.COM

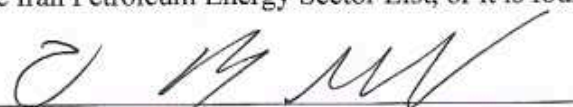
Sections 287.135 and 215.473, Florida Statutes, prohibit Florida municipalities from contracting with companies, for goods or services over \$1,000,000 that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or to engage in any Business operations with Cuba or Syria. Sections 287.135 and 215.4725 also prohibit Florida municipalities from contracting with companies, for goods or services in any amount that are on the list of Scrutinized Companies that Boycott Israel.

The list of "Scrutinized Companies" is created pursuant to Section 215.473, Florida Statutes. A copy of the current list of "Scrutinized Companies" can be found at the following link:

<https://www.sbafla.com/fsb/FundsWeManage/FRSPensionPlan/GlobalGovernanceMandates/QuarterlyReports.aspx>

As the person authorized to sign on behalf of the Respondent Vendor, I hereby certify that the company identified above in the section entitled "Respondent Vendor Name" is not listed on either the Scrutinized Companies with Activities in Sudan List; or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; is not participating in a boycott of Israel; and does not have any business operations with Cuba or Syria. I understand that pursuant to Sections 287.135 and 215.473, Florida Statutes, the submission of a false certification may subject the Respondent Vendor to civil penalties, attorney's fees, and/or costs.

I understand and agree that the City may immediately terminate any contract resulting from this solicitation upon written notice if the company referenced above are found to have submitted a false certification or any of the following occur with respect to the company or a related entity: (i) for any contract for goods or services in any amount of monies, it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) for any contract for goods or services of one million dollars (\$1,000,000) or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria.

Certified By: 

Authorized Signature (Print Name and Title) DARCY BELLEMORE - President

Print Name DARCY BELLEMORE

ATTACHMENT #1

Title PRESIDENT

Signature Bidder/proposer understands and agrees that the City may immediately terminate any contract resulting from this solicitation upon written notice if the company referenced above are found to have submitted a false certification or any of the following occur with respect to the company or a related entity: (i) for any contract for goods or services in any amount of monies, it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) for any contract for goods or services of one million dollars (\$1,000,000) or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria. Lists are created pursuant to section 215.473, Florida Statutes.

ATTACHMENT #1

DECLARATION STATEMENT

City of Mount Dora
510 North Baker Street
Mount Dora, FL 32752

RE: ITB NO. 19-PW-031 "Underground Duct-Line Installation Services"

Dear Mayor and Council Members:

The undersigned, as Bidder (herein used in the masculine, singular, irrespective of actual gender and number) declares that he is the only person interested in this bid or in the contract to which this bid pertains, and that this bid is made without connection or arrangement with any other person and this bid is in every respect fair and made in good faith, without collusion or fraud.

The Bidder further declares that he has complied in every respect with all the Instructions to Bidders issued prior to the opening of bids, and that he has satisfied himself fully relative to all matters and conditions with respect to the general condition of the contract to which the bid pertains.

The Bidder puts forth and agrees, if this bid is accepted, to execute an appropriate City document for the purpose of establishing a formal contractual relationship between him, and the City, for the performance of all requirements to which the bid pertains. The Bidder states that the bid is based upon the bid documents listed by **ITB # 19-PW-031**.

IN WITNESS WHEREOF, WE have hereunto subscribed our names on this 17TH day of AUGUST, 2019
in the City of MOUNT DORA, in the State of FLORIDA.

BELLMORE ENTERPRISES INC

Company


Authorized Signature

DARCY BELLEMORE - PRESIDENT

Printed Name & Title

BELLMOREINC@AOL.COM

Email

16019 REDINGTON DRIVE

Address

REDINGTON BCH, FL 33708

City, State, Zip Code

(727)224-1584

Telephone No.

Fax No.

ATTACHMENT #1

DRUG-FREE WORKPLACE PROGRAM CERTIFICATION

Preference to businesses with drug-free workplace programs. -- Whenever two or more bids, proposals, or replies that are equal with respect to price, quality, and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid, proposal, or reply received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall:

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

Does the individual responding to this solicitation certify that their firm has implemented a drug-free workplace program in accordance with the provision of Section 287.087, Florida Statutes, as stated above?

☒ YES
☐ NO

BELLMORE ENTERPRISES INC

Company



Authorized Signature

DARCY BELLEMORE - PRESIDENT

Printed Name & Title

BELLMOREINC@AOL.COM

Email

16019 REDINGTON DRIVE

Address

REDINGTON BCH, FL 33708

City, State, Zip Code

(727)224-1584

Telephone No.

Fax No.

ATTACHMENT #1

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

State of FLORIDA

County of LAKE

DARCY BELLEMORE, being first duly sworn, deposes and says that:

He/she is PRESIDENT of BELLMORE ENTERPRISE, INC., Bidder that has submitted the attached Bid;

He/she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bids;

Neither the said Bidder nor any of its officers, partners, owners, agent representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, vendor or person, to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the CITY OF MOUNT DORA.

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

BELLMORE ENTERPRISE, INC

Company

[Signature]
Authorized Signature

DARCY BELLEMORE - PRESIDENT

Printed Name & Title

BELLMOREINC@AOL.COM

Email

16019 REDINGTON DRIVE

Address

REDINGTON BCH, FL 33708

City, State, Zip Code

(727)224-1584

Telephone No.

Fax No.

Subscribed and sworn to before me this 17th day of August, 20 19.

[Signature]
Notary Public
Title



Tiffany Sanford
State of Florida
My Commission Expires 07/01/2022
Commission No. GG 207692

My Commission Expires: 07/01/2022

ATTACHMENT #1

SWORN STATEMENT PURSUANT TO SECTION 287.133(3) (A), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

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

1. THIS SWORN STATEMENT IS SUBMITTED TO City of Mount Dora

by DARCY BELLEMORE - PRESIDENT

(Print Individual's Name and Title)

for BELLMORE ENTERPRISES, INC

(Print Name of Entity Submitting Sworn Statement)

whose business is UNDERGROUND CONSTRUCTION CONDUIT INSTALLATION and

(if applicable) its Federal Employer Identification Number (FEIN) is 59-3693642

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

ATTACHMENT #1

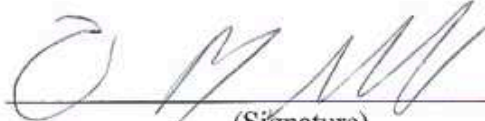
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Indicate which statement applies).

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

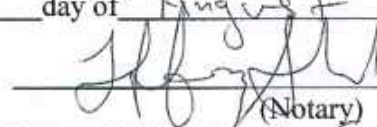
☐ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

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

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


(Signature)

Sworn and subscribed before me this 17th day of August, 2019.

Personally known N/A

(Notary)

OR produced identification ☒ Notary Public State of Florida

Driver license
(Type of Identification) My commission expires: 07/01/2022


Tiffany Sanford
State of Florida
My Commission Expires 07/01/2022
Commission No. GG 207692

ATTACHMENT #1

VENDOR INFORMATION

Vendor is:

- (☒) Corporation
() Partnership
() Sole Proprietorship
() Other _____ (Explain)

Federal Employer Identification Number: 59-3693642

Vendor Name: BELLMORE ENTERPRISES INC

Mailing Address: 16019 REDINGTON DR., REDINGTON BEACH, FL 33708

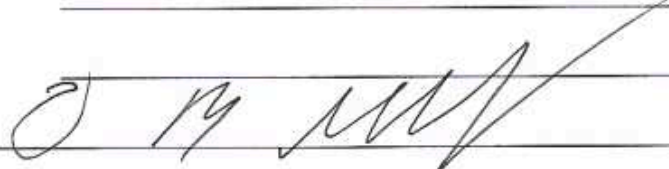
Telephone No.: (727)224-1584 Fax No.: _____

Email Address: BELLMOREINC@AOL.COM Web Address: _____

If remittance address is different from the mailing address so indicate below.

Vendor Name: _____

Remittance Address: _____

Submitted by:  _____

Name & Title Printed: DARCY BELLEMORE - PRESIDENT

ATTACHMENT #1

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Go to www.irs.gov/FormW9 for instructions and the latest information.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
DARCY BELLEMORE

2 Business name/disregarded entity name, if different from above
BELLMORE ENTERPRISES INC

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☐ C Corporation

☒ S Corporation

☐ Partnership

☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶ _____

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
16019 REDINGTON DRIVE

6 City, state, and ZIP code
REDINGTON BEACH, FL 33708

7 List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			-						
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or

Employer identification number

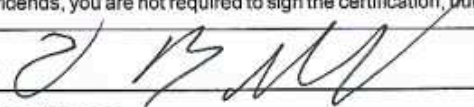
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Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person  Date **08/17/2019**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

ATTACHMENT #1



CITY OF
MOUNT
DORA

COMPLIANCE WITH THE PUBLIC RECORDS LAW

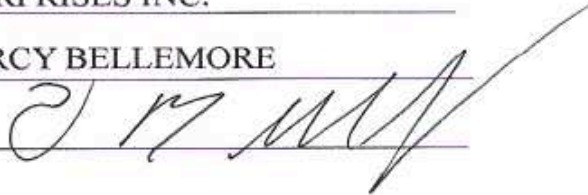
Upon award recommendation or ten (10) days after opening, submittals become "public records" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. Bidders must invoke the exemptions to disclosure provided by law in the response to the solicitation, and must identify the data or other materials to be protected, and must state the reasons why such exclusion from public disclosure is necessary. The submission of a bid/proposal authorizes release of your Vendor's credit data to the CITY.

If the company submits information exempt from public disclosure, the company must identify with specificity which pages/paragraphs of their bid/proposal package are exempt from the Public Records Act, identifying the specific exemption section that applies to each. The protected information must be submitted to the CITY in a separate envelope marked accordingly.

By submitting a response to this solicitation, the company agrees to defend the CITY in the event we are forced to litigate the public records status of the company's documents.

Company Name: BELLMORE ENTERPRISES INC.

Authorized representative (printed): DARCY BELLEMORE

Authorized representative (signature): 

Project Number: **ITB # 19-PW-031**

Date: 8/17/2019

ATTACHMENT #1

PROPOSAL/BID PRICING FORM ITB# 19-PW-031 Underground Duct Line Installation Services

Therefore, the undersigned, Hereinafter called "Bidder" hereby certifies that he/she has familiarized himself/herself with the extend of the services, and having examined carefully the scope of services herein, propose to furnish all labor, equipment, and services without exception, for the "Underground Duct-Line Installation Services". Award will be based on GRAND TOTAL (Part A, and B)

UNIT PRICE LIST FOR "NORMAL" SURFACE AND SUBSURFACE CONDITIONS UNIT GROUP DB - DIRECTIONAL BORING

Installation of conduit utilizing the directional boring method. Unit prices to include entrance and receiving pits (if required) and all equipment and materials (other than City supplied materials) necessary for the installation of PE (polyethylene) conduit at a minimum depth of 36". Price will be by lineal foot. **Pricing units to include hauling and disposal of boring slurries if applicable.**

On per foot cost of adding additional pipe to the same bore, the largest pipe size will be used as the cost basis for the first pipe installed. Smaller or equal size pipe are the additions.

UNIT PRICE LIST FOR "NORMAL" SURFACE AND SUBSURFACE CONDITIONS UNIT GROUP DB - DIRECTIONAL BORING

DESCRIPTION	Estimated Quantity (feet)	Unit Price	COST
Bore 1-2" HDPE, SDR 13.5 Conduit	6000	\$15.00	\$90,000.00
Bore 1-2.5" HDPE, SDR 13.5 Conduit	2000	\$15.00	\$30,000.00
Bore 1-4" HDPE, SDR 13.5 Conduit	1000	\$20.00	\$20,000.00
Bore each additional 2" HDPE, SDR 13.5 Conduit	6000	\$5.00	\$30,000.00
Bore each additional 2.5" HDPE, SDR 13.5 Conduit	500	\$5.00	\$2,500.00
Bore each additional 4" HDPE, SDR 13.5 Conduit	100	\$7.50	\$750.00
Missile 1"-2.5" Sch-40 Conduit @24" depth	500	\$9.00	\$4,500.00
Missile 1"-2.5" Sch-40 Conduit @30" depth	50	\$9.00	\$450.00
Missile 1"-2.5" Sch-40 Conduit @36" depth	50	\$12.00	\$600.00
Missile 1"-2.5" Sch-40 Conduit @42" depth	25	\$15.00	\$375.00

ATTACHMENT #1

Missile 3"-4" Sch-40 Conduit @ 24" depth	50	\$15.00	\$750.00
Missile 3"-4" Sch-40 Conduit @ 30" depth	50	\$15.00	\$750.00
Missile 3"-4" Sch-40 Conduit @ 36" depth	50	\$20.00	\$1,000.00
Missile 3"-4" Sch-40 Conduit @ 42" depth	25	\$20.00	\$500.00
GRAND TOTAL			

Sub Total Unit Group DB \$ 182,175.00

UNIT GROUP EA - HAND TRENCH

Hand dug trench and backfill 12" maximum width, to depth as indicated, pricing unit 1 lineal ft. of trench

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
Hand trench * backfill 12" width, 24" depth	500	\$7.00	\$3,500.00
Hand trench * backfill 12" width, 30" depth	50	\$8.00	\$400.00
Hand trench * backfill 12" width, 36" depth	800	\$10.00	\$8,000.00
Hand trench * backfill 12" width, 42" depth	100	\$12.00	\$1,200.00
Hand trench * backfill 12" width, 48" depth	50	\$14.00	\$700.00
Hand trench * backfill each additional 6" in depth	50	\$ 3.00	\$150.00

Sub Total Unit Group EA \$ 13,950.00

ATTACHMENT #1

UNIT GROUP EB - MACHINE TRENCH (BACKHOE) 12"

Machine dug trench (with a backhoe) and backfill 12" maximum width, depth as indicated, pricing unit 1 lineal feet. of trench.

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
Machine trench (backhoe) 12" width, 24" depth	500	\$6.00	\$ 3,000.00
Machine trench (backhoe) 12" width, 30" depth	500	\$7.00	\$3,500.00
Machine trench (backhoe) 12" width, 36" depth	8000	\$8.00	\$64,000.00
Machine trench (backhoe) 12" width, 42" depth	3000	\$10.00	\$30,000.00
Machine trench (backhoe) 12" width, 48" depth	2000	\$12.00	\$24,000.00
Machine trench (backhoe) each additional 6" in depth	500	\$3.00	\$1,500.00
Machine trench (backhoe) each additional 6" in width	500	\$3.00	\$1,500.00

Sub Total Unit Group EB \$ 127,500.00

ATTACHMENT #1

UNIT GROUP EC - REMOVAL & REPLACEMENT OF PAVING

These Units shall be used when site conditions require the removal and replacement of pavement. All material and labor will be by the Contractor. Pricing unit is per square foot of area removed or replaced. Pricing to include hauling and disposal of excess materials and debris.

DESCRIPTION	Estimated Quantity (Sq. ft.)	Unit Price	EXTENDED COST
Removal of asphalt pavement, 2" thick or less	500	\$ 5.00	\$2500.00
Removal of asphalt pavement, 2" thick or less	500	\$ 5.00	\$2500.00
Removal of lime rock base, 8" or less	200	\$5.50	\$1100.00
Replace lime rock base, 8" or less	200	\$5.50	\$1100.00
Removal of lime rock base, 12" or less	100	\$6.50	\$650.00
Replace lime rock base, 12" or less	100	\$6.50	\$650.00
Removal of concrete 6" thick or less	300	\$5.00	\$1500.00
Replace of concrete 6" thick or less	100	\$5.00	\$500.00
Replace concrete 6" thickness	300	\$6.00	\$1,800.00
Each additional 1" of concrete	100	\$2.00	\$200.00

Sub Total Unit Group EC \$ 12,500.00

UNIT GROUP ED - LANDSCAPING

These units shall be used for the replacement of landscaping disturbed during the work, the Contractor shall provide all sod, seed and mulch. Pricing unit is per square foot of area, **including the hauling and removal of excess material and debris.**

DESCRIPTION	Estimated Quantity (Sq. ft.)	Unit Price	EXTENDED COST
Replace sod with similar sod type	15,000 sq. ft.	\$ 1.25	\$18750.00
Rake, mulch and seed with grass	5,000 sq. ft.	\$0.75	\$3750.00

Sub Total Unit Group ED \$ 22,500.00

ATTACHMENT #1

UNIT GROUP GA - INSTALL CONDUIT UNDER 200'

Installation of conduit in advance of cable pulling in an existing trench at locations other than street crossings. Trenching charges in association with this work shall be chargeable in accordance with either Unit Group A, B, C, or D as applicable. Pricing unit 1 lineal foot of trench.

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
1"-3" PVC Conduit 24" depth	300	\$1.50	\$450.00
1"-3" PVC Conduit 30" depth	50	\$1.50	\$75.00
1"-3" PVC Conduit 36" depth	500	\$2.00	\$1000.00
4"-6" PVC Conduit 36" depth	300	\$2.50	\$750.00
1"-3" PVC Conduit 42" depth	25	\$2.00	\$50.00
2"-3" PVC Conduit 48" depth	25	\$2.50	\$62.50
4"-6" PVC Conduit 42" depth	25	\$3.00	\$75.00
4"-6" PVC Conduit 48" depth	25	\$3.00	\$75.00
Each additional 1" – 3" PVC conduit in trench	500	\$1.50	\$750.00
Each additional 4"-6" PVC conduit in trench	25 each	\$2.50	\$62.50

Sub Total Unit Group GA \$ 3,350.00

UNIT GROUP GB - INSTALL ELBOWS

These units are to be used for the placement of conduit elbows/sweep and pole risers which terminate trenches. All elbows/sweeps and pole risers shall be supplied by the City. No additional charges for trenching shall be added to these unit costs for installation of conduit elbows. Pricing unit for elbows/sweeps is each installed. Pricing unit for pole risers is per foot, on concrete or wood poles.

DESCRIPTION	Estimated Quantity (each)	Unit Price	EXTENDED COST
Install 1 -90 or 45 deg. 24" radius elbow, 2"-3" PVC	500	5.00	2500.00
Install 1 -90 or 45 deg. 24" radius elbow 4" PVC	500	7.00	3500.00

Sub Total Unit Group GB \$ 6,000.00

ATTACHMENT #1

UNIT GROUP JB – MISCELLANEOUS

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
Dewater jack & bore pit	50	\$50.00	\$2,500.00
Dewater trench less than 50'	50	\$50.00	\$2,500.00
Dewater trench 50' to 200' length	25	\$50.00	\$1,250.00
Dewater trench more than 200'	25	\$30.00	\$750.00
Installation of 40 lb. bag of concrete in trench	10	\$6.00	\$60.00

Sub Total Unit Group JB \$ 7,060.00

UNIT GROUP BGA - HAND TRENCH "DIFFICULT" SURFACE & SUBSURFACE CONDITIONS

Hand dug trench and backfill 12" maximum width, to depth as indicated, pricing unit 1 lineal foot of trench.

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
Hand trench & backfill 12" width, 24" depth	50	12.00	600.00
Hand trench & backfill 12" width, 30" depth	50	14.00	700.00
Hand trench & backfill 12" width, 36" depth	50	16.00	800.00
Hand trench & backfill 12" width, 42" depth	50	18.00	900.00
Hand trench & backfill 12" width, 48" depth	50	20.00	1000.00
Hand trench & backfill each additional 6" in depth	50	10.00	500.00

Sub Total Unit Group BGA \$ 4,500.00

CONDUIT INSTALLATION

1.4-A PART A. Group Price Schedule for "Normal" Surface & Subsurface Conditions (All Sub Totals)

Total Charge, Unit Group DB - Directional Boring	\$ <u>182,175.00</u>
Total Charge, Unit Group EA - Hand Trench 12" Width	\$ <u>13,950.00</u>
Total Charge, Unit Group EB – Machine Trench (Backhoe) 12"	\$ <u>127,500.00</u>

ATTACHMENT #1

Total Charge, Unit Group EC - Removal & Replacement of Paving	\$12,500.00
Total Charge, Unit Group ED – Landscaping	\$22,500.00
Total Charge, Unit Group GA - Install Conduit Under 200'	\$3,350.00
Total Charge, Unit Group GB - Install Elbows	\$6,000.00
Total Charge, Unit Group GE - Jack & Bore Conduit	\$
Total Charge, Unit Group JB - Miscellaneous	\$7,060.00
TOTAL	\$375,035.00

Description – PART A	Grand Total Part A
Part A Total price for “Normal” surface & subsurface conditions (All Groups)	\$ 375,035.00

1.4-PART B. CONDUIT AND CABLE INSTALLATION

Total Price schedule for “Difficult” Surface and Subsurface Conditions

Total Charge, Unit Group BGA Hand Trench and Backfill \$ 4,500.00

GRAND TOTAL	\$ 4,500.00
--------------------	--------------------

Description – PART B	Grand Total Part B
Part B Total Price for “Difficult” surface & subsurface conditions	\$ 4,500.00

Grand Total PARTS A, and B	Grand Total Part A, and B
Part A, and B grand total	\$ 379,535.00

Total Price in Words: \$THREE HUNDRED SEVENTY NINE THOUSAND FIVE HUNDRED THIRTY FIVE AND ZERO CENTS

ATTACHMENT #1

ADDITIONAL SERVICES:

CONDUIT INSTALLATION

1.5 LABOR AND EQUIPMENT RATES

GENERAL

The contractor is to submit with the bid submittal hourly labor and equipment rates. The City will use the information provided to determine projected costs of "extra work" and miscellaneous as needed projects.

- A. A complete listing of labor costs by classification including but not limited to laborer, electrician, cable splicer, foreman, and superintendent.
- B. A complete listing of rental equipment costs by type of equipment including but not limited to cranes, backhoes, front end loaders, trenchers, pickup trucks, flatbed trucks, dump trucks, bucket trucks, boom trucks, air compressors, mud hogs, and compactors.

CONDUIT AND CABLE INSTALLATION

1.5 PART A. LABOR RATES:

Item	Proposed Labor/Craft	Rate per Hour from 6:00 am to 6:00 pm	Rate per Hour from 6:01 pm to 5:59 am
1.	Superintendent	\$ 75.00	\$ 125.00
2.	Foreman	\$ 60.00	\$ 90.00
3.	Equipment Operator	\$ 50.00	\$ 80.00
4.	Skilled Labor	\$ 40.00	\$ 65.00
5.	Semi-Skilled Labor	\$ 30.00	\$ 55.00
6.	Common Labor	\$ 25.00	\$ 45.00
7.	Medium Voltage Journeyman Electrician	\$ 100.00	\$ 150.00
8.	Medium Voltage Apprentice Electrician	\$ 50.00	\$ 80.00
9.	Cable Splicer	\$ 75.00	\$ 125.00
10.	Lineman	\$125.00	\$ 175.00

CONDUIT AND CABLE INSTALLATION

- 1.5 PART B. EQUIPMENT COSTS for Unforeseeable Work Ordered (Note: Equipment cost must be included in the previous cost categories for boring, conduit installation, etc.)

ATTACHMENT #1

Item No.	Equipment Description	Rate per Hour	Item No.	Equipment Description	Rate per Hour
1.	¾ or 1 ton truck	\$50.00	16	Pole trailer or cable trailer	\$50.00
2	1 ½ Ton truck	\$60.00	17	Air compressor	\$50.00
3	1 ½ Ton truck w/wench	\$125.00	18	Generator	\$50.00
4	Dump truck	\$300.00	19	2-3 inch water pump	\$25.00
5	Material hauler	\$125.00	20	Mud hen/hog pump (diaphragm type)	\$25.00
6	35 ft. bucket truck	\$250.00	21	Manhole ventilation/blower	\$25.00
7	Pole truck w/auger (Min. 12,000 lb. torque)	\$250.00	22	Acetylene torch	\$25.00
8	Loader/backhoe	\$125.00	23	Plate compactor	\$25.00
9	13/ C.Y. backhoe	\$500.00	24	Roller compactor	\$250.00
10	Crawler mounted backhoe	\$175.00	25	Asphalt roller	\$250.00
11	3 C.Y. loader	\$125.00	26	Chain saw	\$25.00
12	40 ton crane	\$500.00	27	Concrete/asphalt saw	\$25.00
13	25 ton crane	\$400.00	28	Arrow board	\$50.00
14	Trencher – 20 H.P. or less	\$75.00	29	Barricade & flashing light	\$25.00
15	Trencher – more than 20 H.P.	\$125.00	30	Light tree	\$125.00
			31	Rear lot machine	\$250.00

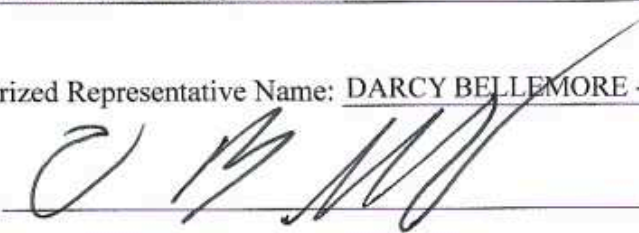
Company Name: BELLMORE ENTERPRISE INC

Address: 16019 REDINGTON DRIVE. REDINGTON BEACH, FL 33708

Telephone Number: (727)224-1584

Email Address: BELLMOREINC@AOL.COM

Company Authorized Representative Name: DARCY BELLMORE - PRESIDENT

Signature/Date:  08/17/2019

ATTACHMENT #1

PLEASE INCLUDE ABOVE ANY OTHER POTENTIAL ADDITIONAL SERVICES THAT MAY BE REQUIRED AND ASSOCIATED WITH COSTS.

ATTACHMENT #1

Cut and use this label for Bid Package

CITY OF MOUNT DORA
PURCHASING DEPARTMENT
1501 ROBIE AVENUE
CITY WAREHOUSE
MOUNT DORA, FL 32757

ITB# 19-PW-031

UNGROUND DUCT-LINE INSTALLATION SERVICES

OPENING DATE/TIME: August 19, 2019
by 3:00 pm

ATTACHMENT #1

EXHIBIT “A”

BIDDERS QUALIFICATIONS

Bidder's Qualification Questionnaire

1. Provide your available manpower to render the services. List your current staff members with their technical knowledge.

Staff Name	Technical Knowledge
KEVIN BELLEMORE	SUPERVISOR/GENERAL MGR
JASON CARDINELL	DRILL OPERATOR/FOREMAN
DONNIE COLLER	DRILL OPERATOR/FOREMAN
WILLIAM MORRIS	EQUIPMENT OPERATOR
DYLAN BELLEMORE	DRILL CREW LABOR/LOCATE TECH
RICARDO MARIN HERNANDEZ	DRILL CREW LABOR/DRIVER
15 ADDITIONAL EXPERIENCED CREW	DRILL CREW & ALL ASSOCIATED LABOR

2. List the equipment you have available for the work in the city of Mount Dora.

2019 VERMEER 10X15 S3, 2019 VERMEER 20X22 S3, 2019 DITCH WITCH JT10 DIR DRILL

2018 BOBCAT E35 EXCAVATOR, 2017 YANMAR EXCAVATOR, 2016 BOBCAT E35 EXCAVATOR

2x - 2015 BOBCAT E35 EXCAVATORS, 2014 185 IR COMPRESSOR, 500 GAL VAC TRAILER & 800 GAL VAC TRAILER, 7 TON DUMP TRAILER

6x - 2016 OR NEWER FLATBED AND PICKUP TRUCKS

3. Do you have any pending claims against your company if so explain.:

N/A

4. Submit proof of insurance such as Worker's Compensation and general liability.

ATTACHMENT #1

5. List your conduit installation work experience including the name of the company, the type of services rendered, and the time frame this occurred

Company Name	Type of Services Rendered	Length of Time
KNIGHT ENTERPRISE	INSTALL CONDUIT & FIBER INCLUDING POWER SUPPLY ELECTRICAL CONDUIT PASCO COUNTY	2011 TO CURRENT
ELECTRICAL ENGINEERING ENTERPRISES	INSTALL CONDUIT FOR NEW STREETLIGHTS AT USF TAMPA CAMPUS	2017
HARRIS MCBURNEY	INSTALL UNDERGROUND CONDUIT FOR AT&T CELLULAR TOWER FEED	2017
CITY OF BUSHNELL	INSTALL CONDUIT FOR ELECTRIC SERVICES	2019 TO CURRENT
MASTEC	INSTALL WATER SERVICES AND ELECTRICAL CONDUIT - CITY OF TAMPA PROJECT	2016
FL GAS & PLUMBING	INSTALL WATER & GAS MAIN LINES	2010 TO CURRENT

6. Provide references and the type of experience from previous projects.

ROB PORTEE - KNIGHT ENTERPRISES - PROJECT MGR

KENT CLEARWATERS - ELECTRICAL ENGINEERING ENTERPRISES - USF TAMPA PROJECT

MIKE GEORGE - MASTEC - 2016 CITY OF TAMPA PROJECT

RICHARD HARVEY - FL GAS & PLUMBING



ATTACHMENT #1

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
8/12/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER WILLIAM F. DAVISON, AGENT Commercial and Home Insurance, Inc. 5635 49th Street N St Petersburg FL 33709		CONTACT NAME: AGENT. CERTIFICATES: AMANDA PHONE (A/C, No, Ext): (727) 527-5700 E-MAIL ADDRESS: ascheaffer@cehinsurance.com FAX (A/C, No): (727) 527-6285	
INSURED Bellmore Enterprises, Inc. 16019 Redington Dr Redington Beach FL 33708-1662		INSURER(S) AFFORDING COVERAGE INSURER A: SECURITY NATIONAL INS CO INSURER B: OLD DOMINION INSURANCE CO INSURER C: ASSOCIATED INDUSTRIES INS CO INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: CL1892803155

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY			SES1536034 01	10/1/2018	10/1/2019	EACH OCCURRENCE
	☐ CLAIMS-MADE ☒ OCCUR		DAMAGE TO RENTED PREMISES (Ea occurrence)				
			MED EXP (Any one person)				
			PERSONAL & ADV INJURY				
	GEN'L AGGREGATE LIMIT APPLIES PER:						\$ 1,000,000
	☐ POLICY ☒ PROJECT ☐ LOC						\$ 100,000
	OTHER:						\$ 5,000
B	AUTOMOBILE LIABILITY			B1P9653D	10/1/2018	10/1/2019	COMBINED SINGLE LIMIT (Ea accident)
	☒ ANY AUTO		BODILY INJURY (Per person)				
	☐ ALL OWNED AUTOS	☐ SCHEDULED AUTOS	BODILY INJURY (Per accident)				
	☐ HIRED AUTOS	☐ NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident)				
							\$ 1,000,000
	UMBRELLA LIAB						\$
	EXCESS LIAB						\$
	DED						\$
	RETENTION \$						\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			AWC1114582	10/1/2018	10/1/2019	☒ PER STATUTE ☒ OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	E.L. EACH ACCIDENT				
	If yes, describe under DESCRIPTION OF OPERATIONS below	Y	E.L. DISEASE - EA EMPLOYEE				
		N/A	E.L. DISEASE - POLICY LIMIT				
							\$ 1,000,000
							\$ 1,000,000
							\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CONDUIT CONSTRUCTION. LICENSEE: DARCY WILLIAM BELLEMORE #CUC1225012.

GENERAL LIABILITY POLICY INCLUDES PROVISIONS FOR AUTOMATIC ADDITIONAL INSURED STATUS TO THE EXTENT PROVIDED IN FORMS CG2033 04-13 AND CG2037 04-13.

CERTIFICATE HOLDER

bellmoreinc@aol.com

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

William Davison/AS

W. F. Davison

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ACORD 25 (2014/01)
INS025 (201401)

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RICK SCOTT, GOVERNOR

JONATHAN ZACHEM, SECRETARY



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
CONSTRUCTION INDUSTRY LICENSING BOARD

THE UNDERGROUND UTILITY & EXCAVATION CO HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

BELLEMORE, DARCY WILLIAM

BELLMORE ENTERPRISES INC
16019 REDINGTON DR
REDINGTON BEACH FL 33708

LICENSE NUMBER: CUC1225012

EXPIRATION DATE: AUGUST 31, 2020

Always verify licenses online at MyFloridaLicense.com



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ATTACHMENT #1

ATTACHMENT #1

BELLMORE ENTERPRISES INC

2018 FINANCIALS

COVER SHEET

10:32 AM
02/24/19
Accrual Basis

ATTACHMENT #1

Bellmore Enterprises, Inc.

Profit & Loss

January through December 2018

	Jan - Dec 18
Ordinary Income/Expense	
Income	
Construction Income	1,750,857.86
Total Income	1,750,857.86
Cost of Goods Sold	
Equipment Rental for Jobs	37,907.86
Tools and Small Equipment	4,052.70
Total COGS	41,960.56
Gross Profit	1,708,897.30
Expense	
10450 68th shop payment	16,093.80
11435 Ridgewood Clr Payment	8,394.84
18 Yanmar E35 mini purchase	56,790.00
1st Quarter medicare tax	1,212.20
1st Quarter payroll	83,600.00
1st Quarter Per Diem	4,200.00
1st Quarter SSI Tax	5,183.20
1st Quarter SUTA	71.40
2018 GMC 3500 FlatBed Purchase	88,950.84
2nd Quarter medicare tax	1,225.25
2nd Quarter payroll	84,500.00
2nd Quarter Per Diem	16,200.00
2nd Quarter ssi tax	5,239.00
2nd Quarter suta	11.70
3rd Quarter medicare tax	1,641.69
3rd Quarter payroll	113,220.00
3rd Quarter Per Diem	21,120.00
3rd Quarter ssi tax	7,019.64
3rd quarter suta	22.22
4th quarter medicare tax	1,435.50
4th quarter payroll	99,000.00
4th quarter per diem	15,200.00
4th quarter ssi tax	6,138.00
4th quarter suta	10.50
Accountant Fee	3,460.00
advertise	267.86
Auto and Truck Expenses	35,672.43
Bank Service Charges	347.47
bore gel	34,891.00
bore gel Disposal	19,342.00
concrete asphalt	32,222.00
Construction Materials Costs	89,716.61
corp fee	199.91
Denali Payment	12,421.20
Ditch Witch 3' Missiles	11,567.00
Drill & Machine Repair/Maint.	60,667.03
Emergency First Aid	604.00
Extra Truck Rental	25,357.19
Fire Protect	2,039.59
Ford 350-19	71,418.96
Gas & Fuel	94,805.71
insurance expense life	2,700.24
Insurance Expense	
Business General Liability Insu	51,157.18
Commercial Auto Insurance	29,811.00
Flood Insurance 68st	2,626.00
Health Insurance	11,832.00
Liability 68st	1,700.32
Redington Flood Insurance	3,592.00
Redington Liability	868.00
Ridgewood Liability	608.00

10:32 AM
02/24/19
Accrual Basis

ATTACHMENT #1
Bellmore Enterprises, Inc.
Profit & Loss
January through December 2018

	Jan - Dec 18
Worker's Compensation Insurance	
WC Exemption	51.00
Worker's Compensation Insurance - Other	26,858.00
Total Worker's Compensation Insurance	26,909.00
Total Insurance Expense	129,103.50
licence	1,015.00
Meals and Entertainment	12,210.26
Medical Expenses	1,219.96
motel	16,269.92
Office Payment	21,461.00
Office Supplies	7,831.85
PARKING	597.05
Pest Control	163.71
Property Tax 11435 Ridgewood Ct	2,942.35
Property Tax 16019 Redington Dr	3,129.49
Property Tax 68th St redington	3,837.36
Air conditioning	9,000.00
Total redington	9,000.00
Road Service	2,155.00
Safety Training	25,600.00
small equip repair	5,268.82
SOD BOUGHT	24,885.72
Synergy bobcat Rental	29,067.29
Tangible Tax	2,428.98
Telephone Expense	4,768.57
tires	7,440.00
tolls	1,322.32
trailer Repair	8,587.44
Trailer Tags	457.65
Travel Expense	6,914.29
Truck Rental	1,184.95
Utilities	
Damage Utilities	4,085.86
Electric Utilities	6,931.79
Internet Utilities	3,955.23
Waste/Trash	867.73
Water Utilities	5,123.10
Total Utilities	20,963.71
Total Expense	1,466,006.17
Net Ordinary Income	242,891.13
Net Income	242,891.13

Form 1120S

Department of the Treasury
Internal Revenue Service

U.S. Income Tax Return for S Corporation

▶ Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation.
▶ Go to www.irs.gov/Form1120S for instructions and the latest information.

OMB No. 1545-0123

2018

For calendar year 2018 or tax year beginning 2018, ending 20

A S election effective date 11-19-2001	TYPE OR PRINT	Name BELLMORE ENTERPRISES INC	D Employer identification number 59-3693642
B Business activity code number (see instructions) 238900		Number, street, and room or suite no. If a P.O. box, see instructions. 16019 REDINGTON DRIVE	E Date incorporated 09-01-2001
		City or town, state or province, country, and ZIP or foreign postal code REDINGTON BEACH FL 33708	F Total assets (see instructions) \$ 138,215
C Check if Sch. M-3 attached ☐			
G Is the corporation electing to be an S corporation beginning with this tax year? ☐ Yes ☒ No If "Yes," attach Form 2553 if not already filed			
H Check if: (1) ☐ Final return (2) ☐ Name change (3) ☐ Address change (4) ☐ Amended return (5) ☐ S election termination or revocation			
I Enter the number of shareholders who were shareholders during any part of the tax year 2			

Caution: Include only trade or business income and expenses on lines 1a through 21. See the instructions for more information.

Income	1a Gross receipts or sales	1,750,858	
	b Returns and allowances		
	c Balance. Subtract line 1b from line 1a		1c 1,750,858
	2 Cost of goods sold (attach Form 1125-A)		2 127,623
	3 Gross profit. Subtract line 2 from line 1c		3 1,623,235
	4 Net gain (loss) from Form 4797, line 17 (attach Form 4797)		4
Deductions (see instructions for limitations)	5 Other income (loss) (see instructions - attach statement)		5
	6 Total income (loss). Add lines 3 through 5		6 1,623,235
	7 Compensation of officers (see instructions - attach Form 1125-E)		7 77,400
	8 Salaries and wages (less employment credits)		8 302,920
	9 Repairs and maintenance		9
	10 Bad debts		10
	11 Rents		11
	12 Taxes and licenses	Wks Tax/Lic	12 34,765
	13 Interest (see instructions)		13 15,154
	14 Depreciation not claimed on Form 1125-A or elsewhere on return (attach Form 4562)		14 289,325
	15 Depletion (Do not deduct oil and gas depletion.)		15
	16 Advertising		16 268
	17 Pension, profit-sharing, etc., plans		17
	18 Employee benefit programs		18
	19 Other deductions (attach statement)	Statement #2	19 639,111
20 Total deductions. Add lines 7 through 19		20 1,358,943	
21 Ordinary business income (loss). Subtract line 20 from line 6		21 264,292	
Tax and Payments	22a Excess net passive income or LIFO recapture tax (see instructions)	22a	
	b Tax from Schedule D (Form 1120S)	22b	
	c Add lines 22a and 22b (see instructions for additional taxes)		22c
	23a 2018 estimated tax payments and 2017 overpayment credited to 2018	23a	
	b Tax deposited with Form 7004	23b	
	c Credit for federal tax paid on fuels (attach Form 4136)	23c	
	d Refundable credit from Form 8827, line 8c	23d	
	e Add lines 23a through 23d		23e
	24 Estimated tax penalty (see instructions). Check if Form 2220 is attached ☐		24
	25 Amount owed. If line 23e is smaller than the total of lines 22c and 24, enter amount owed		25
26 Overpayment. If line 23e is larger than the total of lines 22c and 24, enter amount overpaid		26	
27 Enter amount from line 26: Credited to 2019 estimated tax ☐ Refunded ☐		27	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

DARCY BELLMORE
Signature of officer

Date

PRESIDENT
TitleMay the IRS discuss this return with the preparer shown below (see instructions)? ☐ Yes ☒ No

Paid Preparer Use Only

Print/Type preparer's name

Preparer's signature

Date

Check ☐ if self-employed

PTIN

Gary E Nemes CPA

03-06-2019

P00253747

Firm's name ▶ Gary E Nemes PA

Firm's EIN ▶

Firm's address ▶ 801 West Bay Dr Ste 473

Phone no.

Largo FL 33770

(727) 588-0977

For Paperwork Reduction Act Notice, see separate instructions.

Form 1120S (2018)

ATTACHMENT #1

Form 1120S (2018)

BELLMORE ENTERPRISES INC

59-3693642

Page 2

Schedule B Other Information (see instructions)			Yes	No
1 Check accounting method: a ☒ Cash b ☐ Accrual				
c ☐ Other (specify) ▶ _____				
2 See the instructions and enter the:				
a Business activity ▶ CABLE INSTALLATION		b Product or service ▶ CABLE INSTALLATION		
3 At any time during the tax year, was any shareholder of the corporation a disregarded entity, a trust, an estate, or a nominee or similar person? If "Yes," attach Schedule B-1, Information on Certain Shareholders of an S Corporation				X
4 At the end of the tax year, did the corporation:				
a Own directly 20% or more, or own, directly or indirectly, 50% or more of the total stock issued and outstanding of any foreign or domestic corporation? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below				X
(i) Name of Corporation	(ii) Employer Identification Number (if any)	(iii) Country of Incorporation	(iv) Percentage of Stock Owned	(v) If Percentage in (iv) is 100%, Enter the Date (if any) a Qualified Subchapter S Subsidiary Election Was Made
b Own directly an interest of 20% or more, or own, directly or indirectly, an interest of 50% or more in the profit, loss, or capital in any foreign or domestic partnership (including an entity treated as a partnership) or in the beneficial interest of a trust? For rules of constructive ownership, see instructions. If "Yes," complete (i) through (v) below				X
(i) Name of Entity	(ii) Employer Identification Number (if any)	(iii) Type of Entity	(iv) Country of Organization	(v) Maximum Percentage Owned in Profit, Loss, or Capital
5 a At the end of the tax year, did the corporation have any outstanding shares of restricted stock?				X
If "Yes," complete lines (i) and (ii) below.				
(i) Total shares of restricted stock ▶ _____				
(ii) Total shares of non-restricted stock ▶ _____				
b At the end of the tax year, did the corporation have any outstanding stock options, warrants, or similar instruments?				X
If "Yes," complete lines (i) and (ii) below.				
(i) Total shares of stock outstanding at the end of the tax year ▶ _____				
(ii) Total shares of stock outstanding if all instruments were executed ▶ _____				
6 Has this corporation filed, or is it required to file, Form 8918, Material Advisor Disclosure Statement, to provide information on any reportable transaction?				X
7 Check this box if the corporation issued publicly offered debt instruments with original issue discount ☐				
If checked, the corporation may have to file Form 8281, Information Return for Publicly Offered Original Issue Discount Instruments.				
8 If the corporation: (a) was a C corporation before it elected to be an S corporation or the corporation acquired an asset with a basis determined by reference to the basis of the asset (or the basis of any other property) in the hands of a C corporation and (b) has net unrealized built-in gain in excess of the net recognized built-in gain from prior years, enter the net unrealized built-in gain reduced by net recognized built-in gain from prior years (see instructions) ▶ \$ _____				
9 Did the corporation have an election under section 163(j) for any real property trade or business or any farming business in effect during the tax year? See instructions				X
10 Does the corporation satisfy one of the following conditions and the corporation doesn't own a pass-through entity with current year, or prior year carryover, excess business interest expense? See instructions			X	
a The corporation's aggregate average annual gross receipts (determined under section 448(c)) for the 3 tax years preceding the current tax year don't exceed \$25 million, and the corporation isn't a tax shelter; or				
b The corporation only has business interest expense from (1) an electing real property trade or business, (2) an electing farming business, or (3) certain utility businesses under section 163(j)(7).				
If "No," complete and attach Form 8990.				
11 Does the corporation satisfy both of the following conditions?				
a The corporation's total receipts (see instructions) for the tax year were less than \$250,000				
b The corporation's total assets at the end of the tax year were less than \$250,000				X
If "Yes," the corporation is not required to complete Schedules L and M-1.				

EEA

Form 1120S (2018)

Schedule B Other Information (see instructions) (continued)		Yes	No
12	During the tax year, did the corporation have any non-shareholder debt that was canceled, was forgiven, or had the terms modified so as to reduce the principal amount of the debt?		X
	If "Yes," enter the amount of principal reduction ▶ \$		
13	During the tax year, was a qualified subchapter S subsidiary election terminated or revoked? If "Yes," see instructions	X	
14 a	Did the corporation make any payments in 2018 that would require it to file Form(s) 1099?	X	
b	If "Yes," did the corporation file or will it file required Forms 1099?		
15	Is the corporation attaching Form 8996 to certify as a Qualified Opportunity Fund?	X	
	If "Yes," enter the amount from Form 8996, line 13 ▶ \$		

Schedule K Shareholders' Pro Rata Share Items		Total amount	
Income (Loss)	1 Ordinary business income (loss) (page 1, line 21)	1	264,292
	2 Net rental real estate income (loss) (attach Form 8825)	2	
	3a Other gross rental income (loss) 3a		
	b Expenses from other rental activities (attach statement) 3b		
	c Other net rental income (loss). Subtract line 3b from line 3a 3c		
	4 Interest income 4		
	5 Dividends: a Ordinary dividends 5a		
	b Qualified dividends 5b		
	6 Royalties 6		
	7 Net short-term capital gain (loss) (attach Schedule D (Form 1120S)) 7		
Deductions	8a Net long-term capital gain (loss) (attach Schedule D (Form 1120S)) 8a		
	b Collectibles (28%) gain (loss) 8b		
	c Unrecaptured section 1250 gain (attach statement) 8c		
	9 Net section 1231 gain (loss) (attach Form 4797) 9		
	10 Other income (loss) (see instructions) . . . Type ▶ 10		
	11 Section 179 deduction (attach Form 4562) 11		
	12a Charitable contributions 12a		
	b Investment interest expense 12b		
	c Section 59(e)(2) expenditures (1) Type ▶ (2) Amount ▶ 12c(2)		
	d Other deductions (see instructions) Type ▶ 12d		
Credits	13a Low-income housing credit (section 42(j)(5)) 13a		
	b Low-income housing credit (other) 13b		
	c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468, if applicable) 13c		
	d Other rental real estate credits (see instructions) Type ▶ 13d		
	e Other rental credits (see instructions) Type ▶ 13e		
	f Biofuel producer credit (attach Form 6478) 13f		
	g Other credits (see instructions) Type ▶ 13g		
Foreign Transactions	14a Name of country or U.S. possession ▶ 14b		
	b Gross income from all sources 14c		
	c Gross income sourced at shareholder level 14d		
	Foreign gross income sourced at corporate level 14e		
	d Section 951A category 14f		
	e Foreign branch category 14g		
	f Passive category 14h		
	g General category 14i		
	h Other (attach statement) 14j		
	Deductions allocated and apportioned at shareholder level 14k		
	i Interest expense 14l		
	j Other 14m		
	Deductions allocated and apportioned at corporate level to foreign source income 14n		
	k Section 951A category 14o		
	l Foreign branch category 14p		
	m Passive category 14q		
	n General category 14r		
o Other (attach statement) 14s			
Other information 14t			
p Total foreign taxes (check one): ▶ ☐ Paid ☐ Accrued 14p			
q Reduction in taxes available for credit (attach statement) 14q			
r Other foreign tax information (attach statement) 14r			

ATTACHMENT #1

Form 1120S (2018) **BELLMORE ENTERPRISES INC**

59-3693642 Page 4

Schedule K		Shareholders' Pro Rata Share Items (continued)	Total amount
Alternative Minimum Tax (AMT) Items	15a	Post-1986 depreciation adjustment	15a
	b	Adjusted gain or loss	15b
	c	Depletion (other than oil and gas)	15c
	d	Oil, gas, and geothermal properties - gross income	15d
	e	Oil, gas, and geothermal properties - deductions	15e
	f	Other AMT items (attach statement)	15f
Items Affecting Shareholder Basis	16a	Tax-exempt interest income	16a
	b	Other tax-exempt income	16b
	c	Nondeductible expenses	16c
	d	Distributions (attach statement if required) (see instructions)	16d
	e	Repayment of loans from shareholders	16e
Other Information	17a	Investment income	17a
	b	Investment expenses	17b
	c	Dividend distributions paid from accumulated earnings and profits	17c
	d	Other items and amounts (attach statement)	
Reconciliation	18	Income/loss reconciliation. Combine the amounts on lines 1 through 10 in the far right column. From the result, subtract the sum of the amounts on lines 11 through 12d and 14p	18
			264,292

Schedule L		Balance Sheets per Books		Beginning of tax year		End of tax year	
		(a)	(b)	(c)	(d)		
Assets							
1	Cash						
2a	Trade notes and accounts receivable						
b	Less allowance for bad debts	()		()			
3	Inventories						
4	U.S. government obligations						
5	Tax-exempt securities (see instructions)						
6	Other current assets (attach statement)						
7	Loans to shareholders						
8	Mortgage and real estate loans						
9	Other investments (attach statement)						
10a	Buildings and other depreciable assets	808,035		1,073,117			
b	Less accumulated depreciation	(645,577)	162,458	(934,902)	138,215		
11a	Depletable assets						
b	Less accumulated depletion	()		()			
12	Land (net of any amortization)						
13a	Intangible assets (amortizable only)						
b	Less accumulated amortization	()		()			
14	Other assets (attach statement)						
15	Total assets		162,458		138,215		
Liabilities and Shareholders' Equity							
16	Accounts payable						
17	Mortgages, notes, bonds payable in less than 1 year						
18	Other current liabilities (attach statement)						
19	Loans from shareholders						
20	Mortgages, notes, bonds payable in 1 year or more						
21	Other liabilities (attach statement)						
22	Capital stock						
23	Additional paid-in capital						
24	Retained earnings		162,458		138,215		
25	Adjustments to shareholders' equity (attach statement)						
26	Less cost of treasury stock	()		()			
27	Total liabilities and shareholders' equity		162,458		138,215		

EEA

Form 1120S (2018)

ATTACHMENT #1

Form 1120S (2018)

BELLMORE ENTERPRISES INC

59-3693642

Page 5

Schedule M-1

Reconciliation of Income (Loss) per Books With Income (Loss) per Return

Note: The corporation may be required to file Schedule M-3 (see instructions)

1	Net income (loss) per books	258,187	5	Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize):	
2	Income included on Schedule K, lines 1, 2, 3c, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize):		a	Tax-exempt interest \$	
3	Expenses recorded on books this year not included on Schedule K, lines 1 through 12 and 14p (itemize):		6	Deductions included on Schedule K, lines 1 through 12 and 14p, not charged against book income this year (itemize):	
a	Depreciation \$		a	Depreciation \$	
b	Travel and entertainment \$ 6,105		7	Add lines 5 and 6	
		6,105	8	Income (loss) (Schedule K, line 18). Line 4 less line 7	264,292
4	Add lines 1 through 3	264,292			

Schedule M-2

Analysis of Accumulated Adjustments Account, Shareholders' Undistributed Taxable Income Previously Taxed, Accumulated Earnings and Profits, and Other Adjustments Account (see instructions)

	(a) Accumulated adjustments account	(b) Shareholders' undistributed taxable income previously taxed	(c) Accumulated earnings and profits	(d) Other adjustments account
1 Balance at beginning of tax year	343,155			
2 Ordinary income from page 1, line 21	264,292			
3 Other additions				
4 Loss from page 1, line 21	()			
5 Other reductions	(6,105)			()
6 Combine lines 1 through 5	601,342			
7 Distributions	68,000			
8 Balance at end of tax year. Subtract line 7 from line 6	533,342			

Form 1120S (2018)

EEA

ATTACHMENT #1

Form **1125-A**

Cost of Goods Sold

OMB No. 1545-0123

(Rev. November 2018)

Department of the Treasury
Internal Revenue Service

► Attach to Form 1120, 1120-C, 1120-F, 1120S, or 1065.
► Go to www.irs.gov/Form1125A for the latest information.

Name

Employer identification number

BELLMORE ENTERPRISES INC

59-3693642

1	Inventory at beginning of year	1	
2	Purchases	2	127,623
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule)	5	
6	Total. Add lines 1 through 5	6	127,623
7	Inventory at end of year	7	
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on Form 1120, page 1, line 2 or the appropriate line of your tax return. See instructions	8	127,623

9a Check all methods used for valuing closing inventory:

(i) ☐ Cost

(ii) ☒ Lower of cost or market

(iii) ☐ Other (Specify method used and attach explanation.) ►

b Check if there was a writedown of subnormal goods ► ☐

c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970) ► ☐

d If the LIFO inventory method was used for this tax year, enter amount of closing inventory computed under LIFO **9d** ☐

e If property is produced or acquired for resale, do the rules of section 263A apply to the entity? See instructions ☐ Yes ☒ No

f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If "Yes," attach explanation ☐ Yes ☒ No

For Paperwork Reduction Act Notice, see instructions

Form 1125-A (Rev. 11-2018)

EEA

ATTACHMENT #1

671117

Schedule K-1 (Form 1120S)

Department of the Treasury
Internal Revenue Service

2018

For calendar year 2018, or tax year

beginning 2018 ending

Shareholder's Share of Income, Deductions, Credits, etc.

See page 2 of form and separate instructions.

Part I Information About the Corporation

A Corporation's employer identification number

59-3693642

B Corporation's name, address, city, state, and ZIP code

BELLMORE ENTERPRISES INC

16019 REDINGTON DRIVE

REDINGTON BEACH FL 33708

C IRS Center where corporation filed return

OGDEN

Part II Information About the Shareholder

D Shareholder's identifying number

590-70-9536

E Shareholder's name, address, city, state, and ZIP code

DARCY BELLEMORE

16019 REDINGTON DRIVE

REDINGTON BEACH FL 33708

F Shareholder's percentage of stock ownership for tax year

75.00000 %

For IRS Use Only

Final K-1

Amended K-1

OMB No. 1545-0123

Part III

Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	13	Credits
	198,219		
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income		
5a	Ordinary dividends		
5b	Qualified dividends	14	Foreign transactions
6	Royalties		
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)		
10	Other income (loss)	15	Alternative minimum tax (AMT) items
11	Section 179 deduction	16	Items affecting shareholder basis
12	Other deductions	C*	STMT
		D	51,000
		17	Other information
		V*	STMT

* See attached statement for additional information.

For Paperwork Reduction Act Notice, see the Instructions for Form 1120S.

www.irs.gov/Form1120S

Schedule K-1 (Form 1120S) 2018

EEA

ATTACHMENT #1

Schedule K-1 Supplemental Information		2018
Shareholder's name	DARCY BELLEMORE	Shareholder's ID Number 590-70-9536
Name of S Corporation	BELLMORE ENTERPRISES INC	S Corporation's EIN 59-3693642

FORM 1120S SCHEDULE K-1 - LINE 16

CODE	DESCRIPTION	AMOUNT
C	OTHER NONDEDUCTIBLE EXPENSES	4,579
	MEALS	4,579
	TOTAL	4,579

ATTACHMENT #1

Schedule K-1 Distribution Information				2018
Shareholder's name DARCY BELLEMORE				Shareholder's ID Number 590-70-9536
Name of S Corporation BELLMORE ENTERPRISES INC				S Corporation's EIN 59-3693642

Date of Distribution	Total Amount of Distribution	Ownership % at Date of Distribution	Shares	Shareholder's Pro Rata Share of Distribution
12-31-2018	68,000	75.00	075.00000	<u>51,000</u>
TOTAL				<u><u>51,000</u></u>

1120SK_1.LD2

QBI	Qualified Business Income Deduction Information Reported in Accordance with Prop Reg 1.199A-6 Schedule K-1, Line 17, Codes V-Z							2018	
Corporate Name BELLMORE ENTERPRISES INC								EIN 59-3693642	
Shareholder Name DARCY BELLEMORE								SSN/EIN 590-70-9536	
Name of Trade or Business	Taxpayer Identification Number	Qualified Business Income/(Loss) (V)	Section 1231 Gain (Loss)	Section 179	W-2 Wages (W)	Unadjusted Basis Immediately After Acquisition (X)	Qualified REIT Dividends (Y)	Qualified PTP Income/(Loss) (Z)	SSTB *
1120S: BELLMORE ENTERPRISES INC	59-3693642	198,219	-	-	285,240	765,346	-	-	No

ATTACHMENT #1

* Specified Service Trade or Business

WK_QBIS-1.D

ATTACHMENT #1

671117

OMB No. 1545-0123

Schedule K-1 (Form 1120S)

Department of the Treasury
Internal Revenue Service

2018

For calendar year 2018, or tax year

beginning 2018 ending

Shareholder's Share of Income, Deductions, Credits, etc.

▶ See page 2 of form and separate instructions.

Part I Information About the Corporation

A Corporation's employer identification number

59-3693642

B Corporation's name, address, city, state, and ZIP code

BELLMORE ENTERPRISES INC

16019 REDINGTON DRIVE

REDINGTON BEACH FL 33708

C IRS Center where corporation filed return

OGDEN

Part II Information About the Shareholder

D Shareholder's identifying number

592-82-9203

E Shareholder's name, address, city, state, and ZIP code

KEVIN BELLEMORE

16019 REDINGTON DR

REDINGTON BEACH FL 33708

F Shareholder's percentage of stock ownership for tax year

25.00000 %

For IRS Use Only

Final K-1

Amended K-1

Part III

Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	13	Credits
	66,073		
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income		
5a	Ordinary dividends		
5b	Qualified dividends	14	Foreign transactions
6	Royalties		
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)		
10	Other income (loss)	15	Alternative minimum tax (AMT) items
11	Section 179 deduction	16	Items affecting shareholder basis
12	Other deductions	C*	STMT
		D	17,000
		17	Other information
		V*	STMT

* See attached statement for additional information.

For Paperwork Reduction Act Notice, see the Instructions for Form 1120S.

www.irs.gov/Form1120S

Schedule K-1 (Form 1120S) 2018

EEA

ATTACHMENT #1

Schedule K-1 Supplemental Information		2018
Shareholder's name KEVIN BELLEMORE	Shareholder's ID Number 592-82-9203	
Name of S Corporation BELLMORE ENTERPRISES INC	S Corporation's EIN 59-3693642	

FORM 1120S SCHEDULE K-1 - LINE 16

<u>CODE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
C	OTHER NONDEDUCTIBLE EXPENSES	1,526
	MEALS	1,526
	TOTAL	1,526

1120SK_1.LD2

ATTACHMENT #1

Schedule K-1 Distribution Information				2018
Shareholder's name			Shareholder's ID Number	
KEVIN BELLEMORE			592-82-9203	
Name of S Corporation			S Corporation's EIN	
BELLMORE ENTERPRISES INC			59-3693642	

Date of Distribution	Total Amount of Distribution	Ownership % at Date of Distribution	Shares	Shareholder's Pro Rata Share of Distribution
12-31-2018	68,000	25.00	025.00000	17,000
TOTAL				<u><u>17,000</u></u>

1120SK_1.LD2

QBI

Qualified Business Income Deduction

Information Reported in Accordance with Prop Reg 1.199A-6

Schedule K-1, Line 17, Codes V-Z

2018

Corporate Name

BELLMORE ENTERPRISES INC

EIN

59-3693642

Shareholder Name

KEVIN BELLEMORE

SSNEIN

592-82-9203

Name of Trade or Business	Taxpayer Identification Number	Qualified Business Income/(Loss) (V)	Section 1231 Gain (Loss)	Section 179	W-2 Wages (W)	Unadjusted Basis Immediately After Acquisition (X)	Qualified REIT Dividends (Y)	Qualified PTP Income/(Loss) (Z)	SSTB *
1120S: BELLMORE ENTERPRISES INC	59-3693642	66,073	-	-	95,080	255,115	-	-	No

ATTACHMENT #1

* Specified Service Trade or Business

WK_QBIS-.LD

ATTACHMENT #1 **Depreciation and Amortization** **(Including Information on Listed Property)**

OMB No. 1545-0172

2018Attachment
Sequence No. **179**Department of the Treasury
Internal Revenue Service (99)▶ Go to www.irs.gov/Form4562 for instructions and the latest information.

Name(s) shown on return

Business or activity to which this form relates

Identifying number

BELLMORE ENTERPRISES INC

FORM 1120S

59-3693642

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1	
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation (see instructions)	3	
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2017 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5. See instructions	11	
12	Section 179 expense deduction. Add lines 9 and 10, but don't enter more than line 11	12	
13	Carryover of disallowed deduction to 2019. Add lines 9 and 10, less line 12	13	

Note: Don't use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Don't include listed property. See instructions.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year. See instructions	14	57,000
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	3,291

Part III MACRS Depreciation (Don't include listed property. See instructions.)**Section A**

17	MACRS deductions for assets placed in service in tax years beginning before 2018	17	2,817
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here		

Section B - Assets Placed in Service During 2018 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only-see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property			27.5 yrs.	MM	S/L	
i Nonresidential real property			39 yrs.	MM	S/L	

Section C - Assets Placed in Service During 2018 Tax Year Using the Alternative Depreciation System

(a) Class life	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only-see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
20a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 30-year			30 yrs.	MM	S/L	
d 40-year			40 yrs.	MM	S/L	

Part IV Summary (See instructions.)

21	Listed property. Enter amount from line 28	21	226,217
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	22	289,325
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

For Paperwork Reduction Act Notice, see separate instructions.

Form 4562 (2018)

EEA

Form 4562 (2018) BELLMORE ENTERPRISES INC

Part V**Listed Property** (Include automobiles, certain other vehicles, certain aircraft, and property used for entertainment, recreation, or amusement.)**Note:** For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete only 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.**Section A - Depreciation and Other Information** (Caution: See the instructions for limits for passenger automobiles.)**24a** Do you have evidence to support the business/investment use claimed? ☒ Yes ☐ No **24b** If "Yes," is the evidence written? ☒ Yes ☐ No

(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/ investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/ Convention	(h) Depreciation deduction	(i) Elected section 179 cost
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use. See instructions							25 208,082	
26 Property used more than 50% in a qualified business use:								
Statement #567		%					18,135	
		%						
		%						
27 Property used 50% or less in a qualified business use:								
		%				S/L-		
		%				S/L-		
		%				S/L-		
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1							28 226,217	
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1								29

Section B - Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1	(b) Vehicle 2	(c) Vehicle 3	(d) Vehicle 4	(e) Vehicle 5	(f) Vehicle 6
30 Total business/investment miles driven during the year (don't include commuting miles)						
31 Total commuting miles driven during the year						
32 Total other personal (noncommuting) miles driven						
33 Total miles driven during the year. Add lines 30 through 32						
34 Was the vehicle available for personal use during off-duty hours?	Yes	No	Yes	No	Yes	No
		X		X		X
35 Was the vehicle used primarily by a more than 5% owner or related person?	X		X		X	X
36 Is another vehicle available for personal use?	X	X	X	X	X	X

Section C - Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who aren't more than 5% owners or related persons. See instructions.

	Yes	No
37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?		
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? See instructions		

Note: If your answer to 37, 38, 39, 40, or 41 is "Yes," don't complete Section B for the covered vehicles.**Part VI****Amortization**

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2018 tax year (see instructions):					
43 Amortization of costs that began before your 2018 tax year					43
44 Total. Add amounts in column (f). See the instructions for where to report					44

EEA

Form 4562 (2018)

ATTACHMENT #1

Federal Supporting Statements

2018 PG01

Name(s) as shown on return

Tax ID Number

BELLMORE ENTERPRISES INC

59-3693642

FORM 1120S - LINE 19 - OTHER DEDUCTIONS

Statement #2

<u>DESCRIPTION</u>	<u>AMOUNT</u>
ACCOUNTING	3,460
BANK CHARGES	347
50% MEALS	6,105
OFFICE EXPENSE	7,831
PARKING FEES AND TOLLS	1,919
TRAVEL	25,184
UTILITIES	16,877
ANTIVIRUS	150
BORE GEL	34,891
BORE GEL DISPOSAL	19,342
COMMERICAL INSURANCE PACKAGE	51,157
CONCRETE ASHPHALT	3,222
DIESEL FUEL	94,805
DITCH WITCH MISSILES	11,567
DRILL & MACHINE REPAIR & MAINTENANCE	60,667
EMERGENCY FIRST AID	604
EQUIPMENT RENTAL/LEASE	55,609
EQUIPMENT TIRES	7,440
FIRE PROTECT	2,040
PER DIEM	56,720
PEST CONTROL	164
ROAD SERVICE	2,155
SAFETY TRAINING	25,600
SHOP INSURANCE	4,326
SMALL EQUIPMENT REPAIR	5,269
SOD	24,886
TANGIBLE TAX	2,429
TELEPHONE, INTERNET, FAX	4,769
TOOLS AND SMALL EQUIPMENT	4,053
TRAILER REPAIR	8,587
TRAILER TAGS	458
UTILITY DAMAGE AND REPAIR	4,086
VEHICLE INSURANCE PACKAGE	29,811
VEHICLE REPAIR & MAINTENANCE	35,672
WORKERS COMP	26,909
TOTAL	639,111

STATMENT.LD

ATTACHMENT #1

Federal Supporting Statements

2018 PG01

Name(s) as shown on return

Tax ID Number

BELLMORE ENTERPRISES INC

59-3693642

SCHEDULE K - LINE 16C - NONDEDUCTIBLE EXPENSES

Statement #16c

DESCRIPTION

AMOUNT

MEALS

6,105

TOTAL

6,105

SCHEDULE M-2 - LINE 5 - OTHER REDUCTIONS

PG01

Statement #30

DESCRIPTION

AMOUNT

NONDEDUCTIBLE EXPENSES

6,105

TOTAL

6,105

STATEMENT.LD

ATTACHMENT #1

AGREEMENT

THIS AGREEMENT is made by and between the CITY OF MOUNT DORA, 510 N. Baker Street, Mount Dora, Florida 32757, hereinafter referred to as the "CITY", and BELLMORE ENTERPRISES, INC., 16019 Redington Drive, Redington Beach, Florida 33708, hereinafter referred to as the "CONTRACTOR".

WITNESSETH:

WHEREAS, the CITY has competitively solicited for Underground Duct-Line Installation Services, pursuant to the CITY's Purchasing Policy and ITB-19-PW-031; and,

WHEREAS, the CONTRACTOR submitted the lowest responsive bid most advantageous to the CITY related to the services set forth in ITB-19-PW-031; and,

WHEREAS, the parties hereto have agreed to the terms and conditions cited herein based on said solicitation;

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

SECTION 1. **RECITALS.**

The above Recitals are true and correct and are incorporated herein by this reference.

SECTION 2. **TERM.**

The term of this Agreement shall extend from October 1, 2019 through October 1, 2022, and may be extended when in the best interest of the CITY.

SECTION 3. **SCOPE OF SERVICES.**

The CONTRACTOR shall be responsible for performing the services described in Exhibit "A" attached hereto. To the extent of any conflict between Exhibit "A" and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.

ATTACHMENT #1

SECTION 4. WARRANTY.

The CONTRACTOR agrees to provide a full warranty to the CITY for all services which it provides hereunder for one full year following the date of final completion of such services. In the event that the CONTRACTOR is called to perform warranty work, the CONTRACTOR will be responsible for all costs incurred in repairing the warranted services. To the extent applicable, any manufacturer's warranty on materials provided or installed shall be in addition to the warranty required hereunder.

SECTION 5. OBLIGATIONS OF THE CONTRACTOR.

Obligations of the CONTRACTOR shall include, but not be limited to, the following:

- A. It is understood that the CONTRACTOR shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which may be necessary to fully complete and deliver the goods and/or services requested by the CITY, and shall not have the authority to create or cause to be filed any liens for labor and/or materials on or against the CITY or any property owned by the CITY. Such lien, attachment, or encumbrance, until it is removed, shall preclude any and all claims or demands for any payment expected by virtue of this Agreement.
- B. The CONTRACTOR will ensure that all of its employees, agents, subcontractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions set herein when providing services for the CITY in accordance herewith.
- C. The CONTRACTOR will maintain an adequate and competent staff and remain authorized to do business within the State of Florida. The CONTRACTOR may subcontract the services requested by the CITY; however, the CONTRACTOR is fully responsible for the satisfactory completion of all subcontracted work.

SECTION 6. STANDARD OF CARE.

- A. The CONTRACTOR has represented to the CITY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the services to be provided. By executing this Agreement, the CONTRACTOR agrees that the CONTRACTOR will exercise that degree of care, knowledge, skill, and ability as any other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise, working on

ATTACHMENT #1

similar activities. The CONTRACTOR shall perform the services requested in an efficient manner consistent with the CITY's stated objectives and standards.

- B. The CONTRACTOR covenants and agrees that it and its employees, agents, sub-contractors, representatives, volunteers, and the like, shall be bound by the same standards of conduct as stated above.

SECTION 7. COMPENSATION.

- A. Compensation for services completed by the CONTRACTOR will be in accordance with Florida Statutes, section 218.70, Florida's Prompt Payment Act. The amount to be paid under this Agreement for services rendered shall be in accordance with the pricing schedule set forth in Exhibit "B" which is attached hereto. To the extent of any conflict between Exhibit "B" and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.
- B. Services to be performed in accordance with this Agreement are subject to the annual appropriation of funds by the CITY. In its sole discretion, the CITY reserves the right to forego use of the CONTRACTOR for any work which may fall within the Scope of Services listed herein. In the event the CITY is not satisfied with the services provided by the CONTRACTOR, the CITY will hold any amounts due until such time as the CONTRACTOR has appropriately addressed the problem, so long as the CITY has provided notice of defect to the CONTRACTOR.

SECTION 8. TERMINATION.

Either party may terminate this Agreement, with or without cause, given thirty (30) days written notice to the other party.

SECTION 9. PAYMENT WHEN SERVICES ARE TERMINATED.

- A. In the event of termination of this Agreement by the CITY, and not due to the fault of the CONTRACTOR, the CITY shall compensate the CONTRACTOR for all services performed prior to the effective date of termination.
- B. In the event of termination of this Agreement due to the fault of the CONTRACTOR, or at the written request of the CONTRACTOR, the CITY shall compensate the CONTRACTOR for all services completed, prior to the effective date of termination, which have resulted in a usable product, or otherwise tangible

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benefit to the CITY. All such payments shall be subject to an off-set for any damages incurred by the CITY resulting from any delay occasioned by early termination. This provision shall in no way be construed as the sole remedy available to the CITY in the event of breach by the CONTRACTOR.

SECTION 10.

INSURANCE.

- A. The CONTRACTOR shall maintain the following types of insurance, with the respective limits, and shall provide proof of same to the CITY, in the form of a Certificate of Insurance prior to the start of any work hereunder:
1. AUTOMOBILE:
 - a. Combined Single Limit: \$300,000 per accident,
 - OR**
 - b. Bodily Injury: \$300,000 per person,
 - AND**
 - Property Damage: \$100,000 per accident;
 2. GENERAL LIABILITY: One Million Dollars (\$1,000,000.00) each occurrence;
 3. GENERAL AGGREGATE: Two Million Dollars (\$2,000,000.00);
 4. EXCESS COVERAGE: One Million Dollars (\$1,000,000.00); and,
 5. WORKERS' COMPENSATION: Employers' liability insurance which covers the statutory obligation for all persons engaged in the performance of the work required hereunder with limits not less than One Million Dollars (\$1,000,000.00) per occurrence. Evidence of qualified self-insurance status will suffice for this subsection.
- B. For every insurance policy required hereunder, the CONTRACTOR shall provide the CITY with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:
1. The name of the insured CONTRACTOR,
 2. The specified job by name and job number,
 3. List the "CITY OF MOUNT DORA" as a Certificate Holder,
 4. Recognizes the Indemnification requirements of this Agreement.
 5. The name of the insurer,
 6. The number of the policy,

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7. The effective date,
 8. The termination date,
 9. A statement that the insurer will mail notice to the CITY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.
- C. Receipt of certificates or other documentation of insurance or policies or copies of policies by the CITY, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the CONTRACTOR's obligation to fulfill the insurance requirements specified herein.
- D. The CONTRACTOR shall ensure that any sub-contractor(s), hired to perform any of the duties contained in the Scope of Services of this Agreement, maintain the same insurance requirements set forth herein. In addition, the CONTRACTOR shall maintain proof of same on file and made readily available upon request by the CITY.

SECTION 11. CITY OBLIGATIONS.

At the CONTRACTOR's request, the CITY agrees to provide, at no cost, all pertinent information known to be available to the CITY to assist the CONTRACTOR in providing and performing the required services.

SECTION 12. ENTIRE AGREEMENT.

This Agreement, including referenced exhibits and attachments hereto, constitutes the entire agreement between the parties and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or affect whatsoever on this Agreement.

SECTION 13. APPLICABLE LAW, VENUE, JURY TRIAL.

The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall lie in Lake County, Florida. The parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the parties hereto.

SECTION 14. PUBLIC RECORDS.

- A. Pursuant to Florida Statutes, Section 119.0701:

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IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS:

**CITY CLERK: GWEN JOHNS
510 NORTH BAKER STREET
MOUNT DORA, FL 32757
(352) 735-7126
JOHNSG@CITYOFMOUNTDORA.COM**

B. CONTRACTOR agrees to comply with public records laws, specifically to:

1. Keep and maintain public records required by the CITY to perform the services set forth herein.
2. Upon request from the CITY's custodian of public records, provide the CITY 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 Florida Statutes, Chapter 119, or as otherwise provided by law.
3. Ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the CITY.
4. Upon completion of the contract, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the services set forth herein. If the CONTRACTOR transfers all public records to the CITY upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

SECTION 15. INDEPENDENT CONTRACTOR.

This Agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the CONTRACTOR, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the CITY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal

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Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONTRACTOR will retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONTRACTOR's activities and responsibilities hereunder.

SECTION 16. **APPLICABLE LICENSING.**

The CONTRACTOR, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein.

SECTION 17. **COMPLIANCE WITH ALL LAWS.**

The CONTRACTOR, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement.

SECTION 18. **INDEMNIFICATION.**

The CONTRACTOR agrees to be liable for any and all damages, losses, and expenses incurred, by the CITY, in any way related to the services provided herein and this Agreement, caused by the acts and/or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers or the like. The CONTRACTOR agrees to indemnify, defend and hold the CITY harmless for any and all such claims, suits, judgments or damages, losses and expenses, including but not limited to, court costs, expert witnesses, consultation services and attorney's fees, arising from any and all acts and/or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like through and including any appeals in any way related to the services provided herein and this Agreement. Said indemnification, defense, and hold harmless actions shall not be limited by any required insurance coverage amounts set forth herein and shall survive termination or natural termination of this Agreement.

SECTION 19. **BANKRUPTCY OR INSOLVENCY.**

If the CONTRACTOR shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court, or if a receiver of the property of the CONTRACTOR shall be appointed in any proceeding brought by or against the CONTRACTOR, or if the CONTRACTOR shall make an assignment for the benefit of creditors,

ATTACHMENT #1

or proceedings shall be commenced on or against the CONTRACTOR's operations of the premises, the CITY may terminate this Agreement immediately notwithstanding any notice requirements set forth herein.

SECTION 20. **BINDING EFFECT.**

This Agreement shall be binding upon and enure to the benefit of the parties hereto, their heirs, personal representatives, successors, and/or assigns.

SECTION 21. **ASSIGNMENT.**

This Agreement shall only be assignable by the CONTRACTOR upon the express written consent of the CITY.

SECTION 22. **SEVERABILITY.**

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

SECTION 23. **WAIVER.**

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but same shall remain in full force and effect.

SECTION 24. **NOTICE.**

The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the CITY and the CONTRACTOR. All notices required and/or made pursuant to this Agreement to be given to the CLERK and the CONTRACTOR shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

ATTACHMENT #1

CITY: City of Mount Dora
Attention: City Manager
510 N. Baker Street
Mount Dora, Florida 32757

CONTRACTOR: Bellmore Enterprises, Inc.
16019 Redington Drive
Redington Beach, Florida 33708

SECTION 25. MODIFICATION.

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

SECTION 26. HEADINGS.

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

SECTION 27. ADMINISTRATIVE PROVISIONS.

In the event the CITY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that any such purchase order, memorandum, letter, or other instrument is for the CITY's internal purposes only, and any and all terms, provisions, and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms, and provisions of this Agreement and shall have no force or effect thereon.

SECTION 28. CONFLICT OF INTEREST.

The CONTRACTOR warrants that the CONTRACTOR has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement, and that the CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this Paragraph, the CITY shall have the right to terminate this Agreement immediately, without liability and without regard to the notice requirements set forth herein.

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SECTION 29. PUBLIC ENTITY CRIMES.

As required by section 287.133, Florida Statutes, the CONTRACTOR warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty-six (36) months. The CONTRACTOR further warrants that it will neither utilize the services of, nor contract with, any supplier, sub-contractor, or consultant in connection with this Agreement for a period of thirty-six (36) months from the date of being placed on the convicted contractor list.

SECTION 30. JOINT AUTHORSHIP.

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

SECTION 31. EQUAL OPPORTUNITY EMPLOYER.

The CONTRACTOR is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONTRACTOR will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws.

SECTION 32. AUDITING, RECORDS, AND INSPECTION.

In the performance of this Agreement, the CONTRACTOR shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the CITY and shall be retained by the CONTRACTOR, for a period of five (5) years after termination or completion of the Agreement or until the full CITY audit is complete, whichever comes first. The CITY shall retain the right to audit the books during the Five (5) year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes. The CITY also has the right to conduct an audit within sixty (60) days from the effective date of this Agreement to determine whether the CONTRACTOR has the ability to fulfill its contractual obligations to the satisfaction of the CITY. The CITY has the right to terminate this Agreement based upon the findings in this audit without regard to any notice requirement for termination.

SECTION 33. USE OF CITY NAME, LOGO AND/OR SEAL

The CONTRACTOR may only use the CITY'S name, logo and/or seal with the express written permission of the City and consistent with any CITY policy related to the same.

ATTACHMENT #1

EXHIBIT A

**Commercial Landscape Professionals, Inc., d/b/a Trimac Outdoor
for professional grounds maintenance and landscaping services
ITB-19-LS-030**

ATTACHMENT #1

EXHIBIT A

GENERAL DESCRIPTION OF SPECIFICATIONS OR SCOPE OF WORK

1. Project Description

From time to time the City of Mount Dora (City) may have need for duct line construction services to cause various sections of the City's electrical distribution system to be moved underground. Such services shall include, but are not limited to, installation of electrical conduit (primary, secondary and service) by directional boring or trenching. An initial project consists of laying an underground line along Mary Lane. Various other small underground jobs shall be performed on an as needed basis. The City will primarily use this contract to request directional boring in order to place electric lines underground. However, occasionally the City will request trenching services.

2. Scope of Work:

Contractor shall provide all labor, equipment, and materials if so requested, to complete each job requested by the City of Mount Dora. The contractor is responsible for providing material labor, equipment breakdown, and a complete 'as-built' for each job. The City will provide contractor with drawings of work to be performed.

The work shall include the unloading into and/or out of storage, transporting, storing, assembling, connecting, testing and maintenance for the successful operation of all materials and equipment. This work shall be comprised essentially of the following:

Install electric, conduit to the locations shown on work order drawings as specified. All driveways and roads that must be crossed shall be bored under. As with all jobs, existing underground facilities must be taken into account whether located or not.

All conduit runs shall contain nylon pull strings and/or Mule Tape.

Before installing conduit, it will be contractor's responsibility to call in locates.

The contractor shall coordinate with the City of Mount Dora personnel regarding project management and conduit inspections.

The contractor is responsible for repairs and/or replace all damages such as sod, shrubbery, irrigation sidewalks, existing underground facilities or driveways, etc. that were damaged during the installation of the conduit, or bear the cost of repairs. Sod and shrubbery requiring replacement must be the same or similar to the type damaged.

The contractor shall be responsible address and resolve in a timely fashion all damage claims filed by any property owners affected by work done during stated assigned job. The City shall be made aware of any and all damage claims, the process to rectify and the end result. All costs of repairs will be the Contractor's sole responsibility.

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It is the responsibility of the contractor to furnish and set up traffic control devices that may be required. All traffic control plans shall comply with the FDOT Index 600 standard, and contractor shall coordinate with City Public Works, Police and Fire.

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Exhibit "B"

PROPOSAL/BID PRICING FORM ITB# 19-PW-031 Underground Duct Line Installation Services

UNIT PRICE LIST FOR "NORMAL" SURFACE AND SUBSURFACE CONDITIONS UNIT GROUP DB - DIRECTIONAL BORING

Installation of conduit utilizing the directional boring method. Unit prices to include entrance and receiving pits (if required) and all equipment and materials (other than City supplied materials) necessary for the installation of PE (polyethylene) conduit at a minimum depth of 36". Price will be by lineal foot. Pricing units to include hauling and disposal of boring slurries if applicable.

On per foot cost of adding additional pipe to the same bore, the largest pipe size will be used as the cost basis for the first pipe installed. Smaller or equal size pipe are the additions.

UNIT PRICE LIST FOR "NORMAL" SURFACE AND SUBSURFACE CONDITIONS UNIT GROUP DB - DIRECTIONAL BORING

DESCRIPTION	Estimated Quantity (feet)	Unit Price	COST
Bore 1-2" HDPE, SDR 13.5 Conduit	6000	\$15.00	\$90,000.00
Bore 1-2.5" HDPE, SDR 13.5 Conduit	2000	\$15.00	\$30,000.00
Bore 1-4" HDPE, SDR 13.5 Conduit	1000	\$20.00	\$20,000.00
Bore each additional 2" HDPE, SDR 13.5 Conduit	6000	\$5.00	\$30,000.00
Bore each additional 2.5" HDPE, SDR 13.5 Conduit	500	\$5.00	\$2,500.00
Bore each additional 4" HDPE, SDR 13.5 Conduit	100	\$7.50	\$750.00
Missile 1"-2.5" Sch-40 Conduit @24" depth	500	\$9.00	\$4,500.00
Missile 1"-2.5" Sch-40 Conduit @30" depth	50	\$9.00	\$450.00
Missile 1"-2.5" Sch-40 Conduit @36" depth	50	\$12.00	\$600.00
Missile 1"-2.5" Sch-40 Conduit @42" depth	25	\$15.00	\$375.00

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Missile 3"-4" Sch-40 Conduit @ 24" depth	50	\$15.00	\$750.00
Missile 3"-4" Sch-40 Conduit @ 30" depth	50	\$15.00	\$750.00
Missile 3"-4" Sch-40 Conduit @ 36" depth	50	\$20.00	\$1,000.00
Missile 3"-4" Sch-40 Conduit @ 42" depth	25	\$20.00	\$500.00
GRAND TOTAL			

Sub Total Unit Group DB \$ 182,175.00

UNIT GROUP EA - HAND TRENCH

Hand dug trench and backfill 12" maximum width, to depth as indicated, pricing unit 1 lineal ft. of trench

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
Hand trench * backfill 12" width, 24" depth	500	\$7.00	\$3,500.00
Hand trench * backfill 12" width, 30" depth	50	\$8.00	\$400.00
Hand trench * backfill 12" width, 36" depth	800	\$10.00	\$8,000.00
Hand trench * backfill 12" width, 42" depth	100	\$12.00	\$1,200.00
Hand trench * backfill 12" width, 48" depth	50	\$14.00	\$700.00
Hand trench * backfill each additional 6" in depth	50	\$3.00	\$150.00

Sub Total Unit Group EA \$ 13,950.00

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UNIT GROUP EB - MACHINE TRENCH (BACKHOE) 12"

Machine dug trench (with a backhoe) and backfill 12" maximum width, depth as indicated, pricing unit 1 lineal feet. of trench.

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
Machine trench (backhoe) 12" width, 24" depth	500	\$6.00	\$3,000.00
Machine trench (backhoe) 12" width, 30" depth	500	\$7.00	\$3,500.00
Machine trench (backhoe) 12" width, 36" depth	8000	\$8.00	\$64,000.00
Machine trench (backhoe) 12" width, 42" depth	3000	\$10.00	\$30,000.00
Machine trench (backhoe) 12" width, 48" depth	2000	\$12.00	\$24,000.00
Machine trench (backhoe) each additional 6" in depth	500	\$3.00	\$1,500.00
Machine trench (backhoe) each additional 6" in width	500	\$3.00	\$1,500.00

Sub Total Unit Group EB \$127,500.00

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UNIT GROUP EC - REMOVAL & REPLACEMENT OF PAVING

These Units shall be used when site conditions require the removal and replacement of pavement. All material and labor will be by the Contractor. Pricing unit is per square foot of area removed or replaced. Pricing to include hauling and disposal of excess materials and debris.

DESCRIPTION	Estimated Quantity (Sq. ft.)	Unit Price	EXTENDED COST
Removal of asphalt pavement, 2" thick or less	500	\$5.00	\$2500.00
Removal of asphalt pavement, 2" thick or less	500	\$5.00	\$2500.00
Removal of lime rock base, 8" or less	200	\$5.50	\$1100.00
Replace lime rock base, 8" or less	200	\$5.50	\$1100.00
Removal of lime rock base, 12" or less	100	\$6.50	\$650.00
Replace lime rock base, 12" or less	100	\$6.50	\$650.00
Removal of concrete 6" thick or less	300	\$5.00	\$1500.00
Replace of concrete 6" thick or less	100	\$5.00	\$500.00
Replace concrete 6" thickness	300	\$6.00	\$1,800.00
Each additional 1" of concrete	100	\$2.00	\$200.00
Sub Total Unit Group EC			\$ 12,500.00

UNIT GROUP ED - LANDSCAPING

These units shall be used for the replacement of landscaping disturbed during the work, the Contractor shall provide all sod, seed and mulch. Pricing unit is per square foot of area, including the hauling and removal of excess material and debris.

DESCRIPTION	Estimated Quantity (Sq. ft.)	Unit Price	EXTENDED COST
Replace sod with similar sod type	15,000 sq. ft.	\$1.25	\$18750.00
Rake, mulch and seed with grass	5,000 sq. ft.	\$0.75	\$3750.00

Sub Total Unit Group ED \$22,500.00

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UNIT GROUP GA - INSTALL CONDUIT UNDER 200'

Installation of conduit in advance of cable pulling in an existing trench at locations other than street crossings. Trenching charges in association with this work shall be chargeable in accordance with either Unit Group A, B, C, or D as applicable. Pricing unit 1 lineal foot of trench.

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
1"-3" PVC Conduit 24" depth	500	\$1.50	\$450.00
1"-3" PVC Conduit 30" depth	50	\$1.50	\$75.00
1"-3" PVC Conduit 36" depth	500	\$2.00	\$1000.00
4"-6" PVC Conduit 36" depth	300	\$2.50	\$750.00
1"-3" PVC Conduit 42" depth	25	\$2.00	\$50.00
2"-3" PVC Conduit 48" depth	25	\$2.50	\$62.50
4"-6" PVC Conduit 42" depth	25	\$3.00	\$75.00
4"-6" PVC Conduit 48" depth	25	\$3.00	\$75.00
Each additional 1" - 3" PVC conduit in trench	500	\$1.50	\$750.00
Each additional 4" - 6" PVC conduit in trench	25 each	\$2.50	\$62.50

Sub Total Unit Group GA \$ 3,350.00

UNIT GROUP GB - INSTALL ELBOWS

These units are to be used for the placement of conduit elbows/sweep and pole risers which terminate trenches. All elbows/sweeps and pole risers shall be supplied by the City. No additional charges for trenching shall be added to these unit costs for installation of conduit elbows. Pricing unit for elbows/sweeps is each installed. Pricing unit for pole risers is per foot, on concrete or wood poles.

DESCRIPTION	Estimated Quantity (each)	Unit Price	EXTENDED COST
Install 1 -90 or 45 deg. 24" radius elbow; 2"-3" PVC	500	5.00	2500.00
Install 1 -90 or 45 deg. 24" radius elbow 4" PVC	500	7.00	3500.00

Sub Total Unit Group GB \$ 6,000.00

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UNIT GROUP JB - MISCELLANEOUS

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
Dewater jack & bore pit	50	\$50.00	\$2,500.00
Dewater trench less than 50'	50	\$50.00	\$2,500.00
Dewater trench 50' to 200' length	25	\$50.00	\$1,250.00
Dewater trench more than 200'	25	\$30.00	\$750.00
Installation of 40 lb. bag of concrete in trench	10	\$6.00	\$60.00

Sub Total Unit Group JB \$ 7,060.00

UNIT GROUP BGA - HAND TRENCH "DIFFICULT" SURFACE & SUBSURFACE CONDITIONS

Hand dug trench and backfill 12" maximum width, to depth as indicated, pricing unit 1 lineal foot of trench.

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
Hand trench & backfill 12" width, 24" depth	50	12.00	600.00
Hand trench & backfill 12" width, 30" depth	50	14.00	700.00
Hand trench & backfill 12" width, 36" depth	50	16.00	800.00
Hand trench & backfill 12" width, 42" depth	50	18.00	900.00
Hand trench & backfill 12" width, 48" depth	50	20.00	1000.00
Hand trench & backfill each additional 6" in depth	50	10.00	500.00

Sub Total Unit Group BGA \$ 4,500.00

CONDUIT INSTALLATION

1.4-A PART A. Group Price Schedule for "Normal" Surface & Subsurface Conditions (All Sub Totals)

Total Charge, Unit Group DB - Directional Boring	\$ 182,175.00
Total Charge, Unit Group EA - Hand Trench 12" Width	\$ 13,950.00
Total Charge, Unit Group EB - Machine Trench (Backhoe) 12"	\$ 127,500.00

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Total Charge, Unit Group EC - Removal & Replacement of Paving	<u>\$12,500.00</u>
Total Charge, Unit Group ED - Landscaping	<u>\$22,500.00</u>
Total Charge, Unit Group GA - Install Conduit Under 200'	<u>\$3,350.00</u>
Total Charge, Unit Group GB - Install Elbows	<u>\$6,000.00</u>
Total Charge, Unit Group GE - Jack & Bore Conduit	<u>\$</u>
Total Charge, Unit Group JB - Miscellaneous	<u>\$7,060.00</u>
TOTAL	<u>\$375,035.00</u>

Description - PART A	Grand Total Part A
Part A Total price for "Normal" surface & subsurface conditions (All Groups)	\$ 375,035.00

1.4-PART B. CONDUIT AND CABLE INSTALLATION

Total Price schedule for "Difficult" Surface and Subsurface Conditions

Total Charge, Unit Group BGA Hand Trench and Backfill \$ 4,500.00

GRAND TOTAL \$ 4,500.00

Description - PART B	Grand Total Part B
Part B Total Price for "Difficult" surface & subsurface conditions	\$ 4,500.00

Grand Total PARTS A, and B	Grand Total Part A, and B
Part A, and B grand total	\$ 379,535.00

Total Price in Words: \$THREE HUNDRED SEVENTY NINE THOUSAND FIVE HUNDRED THIRTY FIVE AND ZERO CENTS

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ADDITIONAL SERVICES:

CONDUIT INSTALLATION

1.5 LABOR AND EQUIPMENT RATES

GENERAL

The contractor is to submit with the bid submittal hourly labor and equipment rates. The City will use the information provided to determine projected costs of "extra work" and miscellaneous as needed projects.

- A. A complete listing of labor costs by classification including but not limited to laborer, electrician, cable splicer, foreman, and superintendent.
- B. A complete listing of rental equipment costs by type of equipment including but not limited to cranes, backhoes, front end loaders, trenchers, pickup trucks, flatbed trucks, dump trucks, bucket trucks, boom trucks, air compressors, mud hogs, and compactors.

CONDUIT AND CABLE INSTALLATION

1.5 PART A. LABOR RATES:

Item	Proposed Labor/Craft	Rate per Hour from 6:00 am to 6:00 pm	Rate per Hour from 6:01 pm to 5:59 am
1.	Superintendent	\$ 75.00	\$ 125.00
2.	Foreman	\$ 60.00	\$ 90.00
3.	Equipment Operator	\$ 50.00	\$ 80.00
4.	Skilled Labor	\$ 40.00	\$ 65.00
5.	Semi-Skilled Labor	\$ 30.00	\$ 55.00
6.	Common Labor	\$ 25.00	\$ 45.00
7.	Medium Voltage Journeyman Electrician	\$ 100.00	\$ 150.00
8.	Medium Voltage Apprentice Electrician	\$ 50.00	\$ 80.00
9.	Cable Splicer	\$ 75.00	\$ 125.00
10.	Lineman	\$ 125.00	\$ 175.00

CONDUIT AND CABLE INSTALLATION

- 1.5 PART B. EQUIPMENT COSTS for Unforeseeable Work Ordered (Note: Equipment cost must be included in the previous cost categories for boring, conduit installation, etc.)

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Item No.	Equipment Description	Rate per Hour	Item No.	Equipment Description	Rate per Hour
1.	¾ or 1 ton truck	\$50.00	16.	Pole trailer or cable trailer	\$50.00
2.	1 ½ Ton truck	\$60.00	17.	Air compressor	\$50.00
3.	1 ½ Ton truck w/wench	\$125.00	18.	Generator	\$50.00
4.	Dump truck	\$300.00	19.	2-3 inch water pump	\$25.00
5.	Material hauler	\$125.00	20.	Mud hen/hog pump (diaphragm type)	\$25.00
6.	35 ft. bucket truck	\$250.00	21.	Manhole ventilation/blower	\$25.00
7.	Pole truck w/auger (Min. 12,000 lb. torque)	\$250.00	22.	Acetylene torch	\$25.00
8.	Loader/backhoe	\$125.00	23.	Plate compactor	\$25.00
9.	13/ C.Y. backhoe	\$500.00	24.	Roller compactor	\$250.00
10.	Crawler mounted backhoe	\$175.00	25.	Asphalt roller	\$250.00
11.	3 C.Y. loader	\$125.00	26.	Chain saw	\$25.00
12.	40 ton crane	\$500.00	27.	Concrete/asphalt saw	\$25.00
13.	25 ton crane	\$400.00	28.	Arrow board	\$50.00
14.	Trencher - 20 H.P. or less	\$75.00	29.	Barricade & flashing light	\$25.00
15.	Trencher - more than 20 H.P.	\$125.00	30.	Light tree	\$125.00
			31.	Rear lot machine	\$250.00

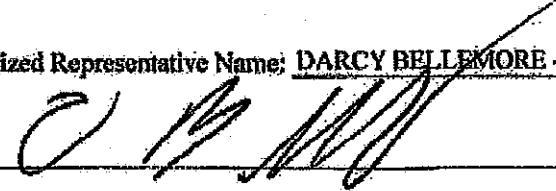
Company Name: BELLMORE ENTERPRISE INC

Address: 16019 REDINGTON DRIVE, REDINGTON BEACH, FL 33708

Telephone Number: (727)224-1584

Email Address: BELLMOREINC@AOL.COM

Company Authorized Representative Name: DARCY BELLMORE - PRESIDENT

Signature/Date: 

08/17/2019

ATTACHMENT #1

RESOLUTION NO. 2019-135

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THE SOLICITATION FOR UNDERGROUND DUCT-LINE INSTALLATION SERVICES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING AUTHORIZATION TO EXECUTE THE AGREEMENT; PROVIDING FOR AUTHORITY TO THE CITY MANAGER FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City issued ITB-19-PW-031 for underground duct-line installation services; and

WHEREAS, the lowest responsive bid was submitted by Bellmore Enterprises, Inc.; and

WHEREAS, the City has determined that it is in its best interest to enter into an Agreement with Bellmore Enterprises, Inc., for the provision of underground duct-line installation services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Authorization to Execute Agreement. The City Council hereby authorizes the Mayor or designee to execute the contract with Bellmore Enterprises, Inc., attached hereto as Exhibit "A".

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to the solicitation for underground duct-line installation services, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

ATTACHMENT #1

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 19th day of September, A.D., 2019.



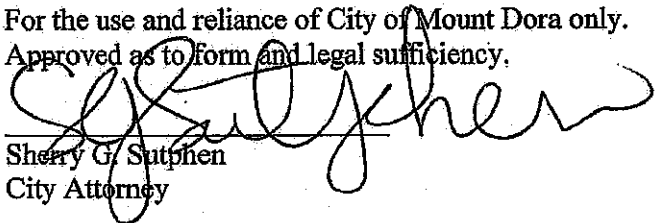
NICK GIRONE
MAYOR of the City of Mount Dora, Florida

ATTEST:



GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only.
Approved as to form and legal sufficiency.



Sherry G. Sutphen
City Attorney

Resolution No. 2019-135
Page 2

ATTACHMENT #1

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,
have executed this Agreement effective the ____ day of _____, 2019.

CONTRACTOR

By: _____

Print: DARCY BELLEMORE

Title: President

STATE OF FLORIDA

COUNTY OF FLORIDA

The foregoing instrument was executed before me this 1st day of OCTOBER,
2019 by Darcy Bellmore, as President of Bellmore Enterprises,
Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and
thereby bind the Contractor, and who is personally known to me OR has produced
FD as identification.

(stamp)

NOTARY PUBLIC, State of Florida



Phillip J. Koplan
State of Florida
My Commission Expires 04/26/2023
Commission No. GG 306107

CITY OF MOUNT DORA

NICK GIRONE

MAYOR of the City of Mount Dora, Florida

ATTEST:

Gwen Keough-Johns
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only.
Approved as to form and legal sufficiency.

Sherry G. Sutphen
Sherry G. Sutphen
City Attorney

ATTACHMENT #2

AMENDMENT 1 TO AGREEMENT BETWEEN THE CITY OF MOUNT DORA AND BELLMORE ENTERPRISES, INC.

THIS AMENDMENT is entered into by and between the City of Mount Dora, a municipal corporation of the State of Florida, 510 N. Baker Street, Mount Dora, Florida 32757 hereinafter referred to as the “CITY” and Bellmore Enterprises, Inc., 16019 Redington Drive, Redington Beach, Florida 33708, hereinafter referred to as the “CONTRACTOR”.

WHEREAS, on September 19, 2019, the City adopted Resolution 2019-135, which authorized the Agreement between the CITY and the CONTRACTOR related to ITB-19-PW-031 (Agreement); and

WHEREAS, the Agreement and ITB-19-PW-031, contemplated that the CONTRACTOR would provide underground duct-line installation services; and

WHEREAS, the CONTRACTOR has requested a rate increase for certain unit prices due to material cost increases and the parties have determined that it is in their mutual best interest to amend the Agreement to accommodate the request.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the CITY and the CONTRACTOR agree as follows:

1. Section 2, Term, is hereby amended to extend the Term through October 1, 2023.
2. Section 7, Compensation, is hereby amended to revise certain unit pricing on the schedule attached to the Agreement as Exhibit “B”. The unit pricing shall be adjusted as set forth in **Exhibit “A”** attached hereto. **Exhibit “A”** is in no way intended to alter any other term or condition of the Agreement and is only intended to provide an adjustment to those specific unit prices as indicated in **Exhibit “A”**.
3. All other terms and conditions of the Agreement shall remain in full force and effect.

(Signatures on the following page)

ATTACHMENT #2

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Amendment 1 effective this 17 day of may, 2022.

CITY OF MOUNT DORA



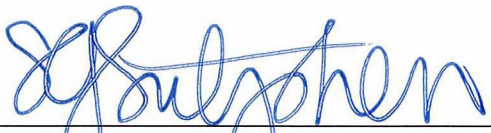
**CRISSY STILE, MAYOR of the City of
Mount Dora, Florida**

ATTEST:



**JESSICA BURNHAM
CITY CLERK**

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency



Sherry G. Sutphen, City Attorney

CONTRACTOR

By: [Signature]

Print: Darcy Bellemore

Title: President

STATE OF FLORIDA
COUNTY OF Pinellas

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization of Darcy Bellemore, as President, of Bellmore Enterprises, who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Contractor, and who is personally known to me or who produced _____ as identification, and who did/did not take an oath this 9th day of May, 2022.

(stamp)

[Signature]
NOTARY PUBLIC, State of Florida

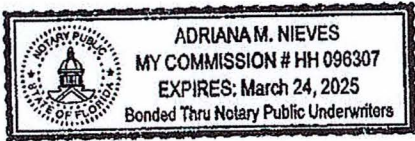


Exhibit "A"

**PROPOSAL/BID PRICING FORM
ITB# 19-PW-031
Underground Duct Line Installation Services**

Therefore, the undersigned, Hereinafter called "Bidder" hereby certifies that he/she has familiarized himself/herself with the extend of the services, and having examined carefully the scope of services herein, propose to furnish all labor, equipment, and services without exception, for the "Underground Duct-Line Installation Services". Award will be based on GRAND TOTAL (Part A, and B)

**UNIT PRICE LIST FOR "NORMAL" SURFACE AND SUBSURFACE CONDITIONS
UNIT GROUP DB - DIRECTIONAL BORING**

Installation of conduit utilizing the directional boring method. Unit prices to include entrance and receiving pits (if required) and all equipment and materials (other than City supplied materials) necessary for the installation of PE (polyethylene) conduit at a minimum depth of 36". Price will be by lineal foot. **Pricing units to include hauling and disposal of boring slurries if applicable.**

On per foot cost of adding additional pipe to the same bore, the largest pipe size will be used as the cost basis for the first pipe installed. Smaller or equal size pipe are the additions.

**UNIT PRICE LIST FOR "NORMAL" SURFACE AND SUBSURFACE CONDITIONS
UNIT GROUP DB - DIRECTIONAL BORING**

DESCRIPTION	Estimated Quantity (feet)	Unit Price	COST
Bore 1-2" HDPE, SDR 13.5 Conduit	6000	\$15.00 +\$2.00/ft NEW UNIT PRICE \$17.00	
Bore 1-2.5" HDPE, SDR 13.5 Conduit	2000	\$15.00	\$30,000.00
Bore 1-4" HDPE, SDR 13.5 Conduit	1000	\$20.00 +\$3.00/ft NEW UNIT PRICE \$23.00	
Bore each additional 2" HDPE, SDR 13.5 Conduit	6000	\$5.00 +\$2.00/ft NEW UNIT PRICE \$7.00	
Bore each additional 2.5" HDPE, SDR 13.5 Conduit	500	\$5.00	\$2,500.00
Bore each additional 4" HDPE, SDR 13.5 Conduit	100	\$7.50 +\$3.00/ft NEW UNIT PRICE \$10.50	
Missile 1"-2.5" Sch-40 Conduit @24" depth	500	\$9.00	\$4,500.00
Missile 1"-2.5" Sch-40 Conduit @30" depth	50	\$9.00	\$450.00
Missile 1"-2.5" Sch-40 Conduit @36" depth	50	\$12.00	\$600.00
Missile 1"-2.5" Sch-40 Conduit @42" depth	25	\$15.00	\$375.00

UNIT GROUP GA - INSTALL CONDUIT UNDER 200'

Installation of conduit in advance of cable pulling in an existing trench at locations other than street crossings. Trenching charges in association with this work shall be chargeable in accordance with either Unit Group A, B, C, or D as applicable. Pricing unit 1 lineal foot of trench.

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
1"-3" PVC Conduit 24" depth	300	\$1.50 +\$3.00/ft NEW UNIT PRICE \$4.50	
1"-3" PVC Conduit 30" depth	50	\$1.50 +\$3.00/ft NEW UNIT PRICE \$4.50	
1"-3" PVC Conduit 36" depth	500	\$2.00 +\$3.00/ft NEW UNIT PRICE \$5.00	
4"-6" PVC Conduit 36" depth	300	\$2.50 +\$3.50/ft NEW UNIT PRICE \$6.00	
1"-3" PVC Conduit 42" depth	25	\$2.00 +\$3.00/ft NEW UNIT PRICE \$5.00	
2"-3" PVC Conduit 48" depth	25	\$2.50 +\$3.00/ft NEW UNIT PRICE \$5.50	
4"-6" PVC Conduit 42" depth	25	\$3.00 +\$3.50/ft NEW UNIT PRICE \$6.50	
4"-6" PVC Conduit 48" depth	25	\$3.00 +\$3.50/ft NEW UNIT PRICE \$6.50	
Each additional 1" – 3" PVC conduit in trench	500	\$1.50 +\$2.50/ft NEW UNIT PRICE \$4.00	
Each additional 4"-6" PVC conduit in trench	25 each	\$2.50 +\$3.00/ft NEW UNIT PRICE \$5.50	

Sub Total Unit Group GA \$ 3,350.00

UNIT GROUP GB - INSTALL ELBOWS

These units are to be used for the placement of conduit elbows/sweep and pole risers which terminate trenches. All elbows/sweeps and pole risers shall be supplied by the City. No additional charges for trenching shall be added to these unit costs for installation of conduit elbows. Pricing unit for elbows/sweeps is each installed. Pricing unit for pole risers is per foot, on concrete or wood poles.

DESCRIPTION	Estimated Quantity (each)	Unit Price	EXTENDED COST
Install 1 -90 or 45 deg. 24" radius elbow, 2"-3" PVC	500	5.00	2500.00
Install 1 -90 or 45 deg. 24" radius elbow 4" PVC	500	7.00	3500.00

Sub Total Unit Group GB \$ 6,000.00

ATTACHMENT #3

SECOND AMENDMENT TO AGREEMENT BETWEEN THE CITY OF MOUNT DORA AND BELLMORE ENTERPRISES, INC.

THIS SECOND AMENDMENT is entered into by and between the City of Mount Dora, municipal corporation of the State of Florida, 510 N. Baker Street, Mount Dora, Florida 32757 (the “CITY”) and Bellmore Enterprises, Inc., 16019 Redington Drive, Redington Beach, Florida 33708 (the “CONTRACTOR”).

WHEREAS, on September 19, 2019, the City adopted Resolution 2019-135, which authorized the Agreement between the CITY and the CONTRACTOR related to ITB 19-PW-031 Underground Duct-Line Services (the “Agreement”); and

WHEREAS, pursuant to Section 2 of the Agreement, the parties may extend the term of the Agreement when it is in the best interests of the CITY; and

WHEREAS, the Agreement and ITB-19-PW-031 contemplate the CONTRACTOR performing underground duct-line installment services at fixed unit prices; and

WHEREAS, the Agreement was previously amended on May 17, 2022, to extend the term of the Agreement and to revise certain unit pricing (“Amendment 1”); and

WHEREAS, the Agreement is scheduled to expire on October 1, 2023, pursuant to Amendment 1, and the parties have determined that it is in their mutual best interest to further extend the term of the Agreement in exchange for certain unit price increases.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, which the parties acknowledge is valuable consideration, the CITY and the CONTRACTOR agree as follows:

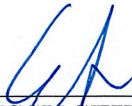
1. Section 2, Term, which was previously amended by Amendment 1, is hereby amended to extend the Term of the Agreement through October 1, 2024; and
2. Section 7, Compensation, which was previously amended by Amendment 1, is hereby amended to adopt and revise certain unit pricing as set forth in **Exhibit “A,”** attached hereto. Only those unit price revisions contained in **Exhibit “A”** are adopted by this Second Amendment. **Exhibit “A”** is not intended and shall not be interpreted to alter or adjust any other term or condition of the Agreement; and
3. All other terms and conditions of the Agreement shall remain in full force and effect; and
4. In the event of a conflict between the express terms of the Second Amendment and the Agreement or Amendment 1, the terms of the Second Amendment shall control.

[Signatures on following page]

ATTACHMENT #3

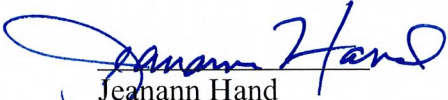
IN WITNESS WHEREOF, the parties hereto by their duly authorized representatives, have executed this Second Amendment effective this 17th day of October, 2023.

CITY OF MOUNT DORA



CRISSY STILE, MAYOR
City of Mount Dora

ATTEST:



Jeanann Hand
City Clerk

Approved as to form and legal sufficiency



Patrick Brackins, City Attorney

ATTACHMENT #3

CONTRACTOR

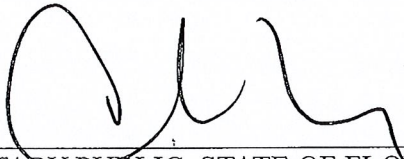
By: Bellmore Enterprises Inc

Print: DARCY Bellemore

Title: President

STATE OF FLORIDA
COUNTY OF Lake

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization of Darcy Bellemore, as President, of Bellmore Enterprises Inc, who personally swore or affirmed that he/she is authorized to executed this Second Amendment and thereby bind Bellmore Enterprises, Inc., who is personally known to me ☐ or who produced FL DL as identification, and who did ☐ did not ☒ take an oath this 10th day of October, 2023.


NOTARY PUBLIC, STATE OF FLORIDA

(stamp)



**PROPOSAL/BID PRICING FORM
ITB# 19-PW-031
Underground Duct Line Installation Services**

Therefore, the undersigned, Hereinafter called "Bidder" hereby certifies that he/she has familiarized himself/herself with the extend of the services, and having examined carefully the scope of services herein, propose to furnish all labor, equipment, and services without exception, for the "Underground Duct-Line Installation Services". Award will be based on GRAND TOTAL (Part A, and B)

**UNIT PRICE LIST FOR "NORMAL" SURFACE AND SUBSURFACE CONDITIONS
UNIT GROUP DB - DIRECTIONAL BORING**

Installation of conduit utilizing the directional boring method. Unit prices to include entrance and receiving pits (if required) and all equipment and materials (other than City supplied materials) necessary for the installation of PE (polyethylene) conduit at a minimum depth of 36". Price will be by lineal foot. **Pricing units to include hauling and disposal of boring slurries if applicable.**

On per foot cost of adding additional pipe to the same bore, the largest pipe size will be used as the cost basis for the first pipe installed. Smaller or equal size pipe are the additions.

**UNIT PRICE LIST FOR "NORMAL" SURFACE AND SUBSURFACE CONDITIONS
UNIT GROUP DB - DIRECTIONAL BORING**

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Bore 1-2.5" HDPE, SDR 13.5 Conduit	2000	\$15.00	\$30,000.00
Bore 1-4" HDPE, SDR 13.5 Conduit	1000	\$20.00 +\$3.00/ft NEW UNIT PRICE \$23.00	
Bore each additional 2" HDPE, SDR 13.5 Conduit	6000	\$5.00 +\$2.00/ft NEW UNIT PRICE \$7.00	
Bore each additional 2.5" HDPE, SDR 13.5 Conduit	500	\$5.00	\$2,500.00
Bore each additional 4" HDPE, SDR 13.5 Conduit	100	\$7.50 +\$3.00/ft NEW UNIT PRICE \$10.50	
Missile 1"-2.5" Sch-40 Conduit @24" depth	500	\$9.00	\$4,500.00
Missile 1"-2.5" Sch-40 Conduit @30" depth	50	\$9.00	\$450.00
Missile 1"-2.5" Sch-40 Conduit @36" depth	50	\$12.00	\$600.00
Missile 1"-2.5" Sch-40 Conduit @42" depth	25	\$15.00	\$375.00

AMENDMENT 2 - CONTRACT EXTENSION YEAR 2

All units that apply - 3" HDPE Conduit - ADD \$1.00 to the unit price

ATTACHMENT #3

UNIT GROUP GA - INSTALL CONDUIT UNDER 200'

Installation of conduit in advance of cable pulling in an existing trench at locations other than street crossings. Trenching charges in association with this work shall be chargeable in accordance with either Unit Group A, B, C, or D as applicable. Pricing unit 1 lineal foot of trench.

DESCRIPTION	Estimated Quantity (feet)	Unit Price	EXTENDED COST
1"-3" PVC Conduit 24" depth	300	\$1.50 +\$3.00/ft NEW UNIT PRICE	\$4.50
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1"-3" PVC Conduit 36" depth	500	\$2.00 +\$3.00/ft NEW UNIT PRICE	\$5.00
4"-6" PVC Conduit 36" depth	300	\$2.50 +\$3.50/ft NEW UNIT PRICE	\$6.00
1"-3" PVC Conduit 42" depth	25	\$2.00 +\$3.00/ft NEW UNIT PRICE	\$5.00
2"-3" PVC Conduit 48" depth	25	\$2.50 +\$3.00/ft NEW UNIT PRICE	\$5.50
4"-6" PVC Conduit 42" depth	25	\$3.00 +\$3.50/ft NEW UNIT PRICE	\$6.50
4"-6" PVC Conduit 48" depth	25	\$3.00 +\$3.50/ft NEW UNIT PRICE	\$6.50
Each additional 1" – 3" PVC conduit in trench	500	\$1.50 +\$2.50/ft NEW UNIT PRICE	\$4.00
Each additional 4"-6" PVC conduit in trench	25 each	\$2.50 +\$3.00/ft NEW UNIT PRICE	\$5.50

Sub Total Unit Group GA \$ 3,350.00

UNIT GROUP GB - INSTALL ELBOWS

These units are to be used for the placement of conduit elbows/sweep and pole risers which terminate trenches. All elbows/sweeps and pole risers shall be supplied by the City. No additional charges for trenching shall be added to these unit costs for installation of conduit elbows. Pricing unit for elbows/sweeps is each installed. Pricing unit for pole risers is per foot, on concrete or wood poles.

DESCRIPTION	Estimated Quantity (each)	Unit Price	EXTENDED COST
Install 1 -90 or 45 deg. 24" radius elbow, 2"-3" PVC	500	5.00	2500.00
Install 1 -90 or 45 deg. 24" radius elbow 4" PVC	500	7.00	3500.00

Sub Total Unit Group GB \$ 6,000.00

**THIRD AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF MOUNT DORA
AND BELLMORE ENTERPRISES, INC.**

THIS THIRD AMENDMENT is entered into by and between the City of Mount Dora, municipal corporation of the State of Florida, 510 N. Baker Street, Mount Dora, Florida 32757 (the “CITY”) and Bellmore Enterprises, Inc., 16019 Redington Drive, Redington Beach, Florida 33708 (the “CONTRACTOR”).

WHEREAS, on September 19, 2019, the City adopted Resolution 2019-135, which authorized the Agreement between the CITY and the CONTRACTOR related to ITB 19-PW-031 Underground Duct-Line Services (the “Agreement”); and

WHEREAS, pursuant to Section 2 of the Agreement, the parties may extend the term of the Agreement when it is in the best interests of the CITY; and

WHEREAS, the Agreement was previously amended on May 17, 2022, to extend the term of the Agreement and to revise certain unit pricing (“Amendment 1”); and

WHEREAS, the Agreement was amended a second time on October 17, 2023, to extend the term through October 1, 2024, and to further revise certain unit pricing as set forth therein (“Amendment 2”); and

WHEREAS, the Agreement is scheduled to expire on October 1, 2024, pursuant to Amendment 2, and the parties have determined that it is in their mutual best interest to further extend the term of the Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, which the parties acknowledge is valuable consideration, the CITY and the CONTRACTOR agree as follows:

1. Section 2, Term, which was previously amended by Amendments 1 and 2, is hereby amended to extend the Term of the Agreement through October 1, 2025; and
2. All other terms and conditions of the Agreement, as amended, shall remain in full force and effect; and
3. In the event of a conflict between the express terms of the Third Amendment and the Agreement or Amendments 1 or 2, the terms of the Third Amendment shall control.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto by their duly authorized representatives, have executed this Second Amendment effective this _____ day of May, 2024.

CITY OF MOUNT DORA

CRISSY STILE, MAYOR
City of Mount Dora

ATTEST:

Jeanann Hand
City Clerk

Approved as to form and legal sufficiency

Patrick Brackins, City Attorney

CONTRACTOR

By: _____

Print: _____

Title: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization of _____, as _____, of _____, who personally swore or affirmed that he/she is authorized to executed this Second Amendment and thereby bind Bellmore Enterprises, Inc., who is personally known to me ____ or who produced _____ as identification, and who did ____ did not ____ take an oath this _____ day of May 2024.

NOTARY PUBLIC, STATE OF FLORIDA

(stamp)



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: Request Approval of Task Authorization in the Amount of \$65,316.59 with Faden Builders, Inc. for Site Work and Landscape Wall at Gilbert Park.

Introduction:

This is a request for City Council to approve the task authorization with Faden Builders for site work and landscape wall at Gilbert Park.

Discussion:

Gilbert Park, home to the iconic playground that draws thousands of families per year, is one of the most popular parks in the City. This location has a large playground for both 2-5 year-olds and 5-12 year-olds. The proposed new design includes activities for both of these age groups, and the addition of several ADA features for a result that is truly all-inclusive.

The wall needs to be replaced before the phase two portion of the playground can start. The wall is deteriorating and is currently the support structure for a portion of this playground that is being replaced. Scope Summary: Provide labor and equipment to install a new landscape wall on the West and North side of playground equipment to replace the existing wood wall. Remove existing concrete steps and install new steps with handrails.

In 2018, Phase One of Gilbert Parks's renovation replaced wooden features that had exceeded their useful life. This second phase will replace the older features that remain.

The Gilbert Park playground renovation project has a City Council approved budget of \$700,000. With the playground equipment and installation at \$600,213.29, the project came in under budget because Parks staff and Public Works staff committed to helping with demolition and preparation of the site prior to construction. The additional cost of \$65,316.59 will still keep this project under budget.

Budget Impact:

City Council approved funding in the amount of \$700,000 is budgeted for this project in GL# 310-5555-580.63-01-PK2413. The wall portion will be \$65,316.59

Strategic Impact:

Objective 2.3 - Develop a parks and recreation system guided by the principles of the Parks and Recreation Master Plan.

Recommendation:

City Council approve the task authorization with Faden Builders, Inc. for site work and landscape wall at Gilbert Park.

Attachment(s):

1. Attachment #1 Reso No. 2020-24 Approval of Pre-Construction Services Agreements for Construction Manager at Ris (CMAR) Services for Citywide Projects
2. 24-149 CMAR Gilbert Park Site Work Task Authorization

Prepared by: Jennifer Schwarz, Operations Manager
Reviewed by: Troy Shonk, Parks & Recreation Director
Aneta Barton, Budget Director
City Attorney, City Attorney
Jeanann Hand, City Clerk
Vince Sandersfeld, Acting City Manager

Approved - 4/16/2024
Approved - 4/17/2024
Approved - 5/1/2024
Approved - 5/1/2024
Final Approval -
5/1/2024

ATTACHMENT #1

RESOLUTION NO. 2020-24

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO CONSTRUCTION MANAGER AT RISK (CMAR) SERVICES FOR CITYWIDE PROJECTS LESS THAN TWO MILLION DOLLARS; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF AGREEMENT AND AUTHORIZATION TO EXECUTE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City has competitively solicited for construction manager at risk services for Citywide projects which are less than Two Million Dollars, pursuant to the City's Purchasing Policy and RFQ-19-GS-018; and

WHEREAS, the evaluation committee ranked the proposals during the selection process and Evergreen Construction Group of Florida, LLC, Faden Builders, Inc., and Wharton-Smith, Inc., were deemed to be the most responsive, responsible and qualified firms to provide construction manager at risk services on an as needed basis for Citywide projects which are less than Two Million Dollars as contemplated by RFQ-19-GS-018; and

WHEREAS, on September 19, 2019, pursuant to Resolution 2020-137, the City authorized negotiations with Evergreen Construction Group of Florida, LLC, Faden Builders, Inc., and Wharton-Smith, Inc., for construction manager at risk services for Citywide projects which are less than Two Million Dollars; and

WHEREAS, the City has successfully negotiated contracts with Evergreen Construction Group of Florida, LLC, Faden Builders, Inc., and Wharton-Smith, Inc., and has determined that it is in its best interest to approve the execution of the same.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

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SECTION 2. Approval of Agreement and Authorization to Execute.

A. The Agreement with Evergreen Construction Group of Florida, LLC, attached hereto as **Exhibit "A"** is approved and the Mayor, or designee thereof, is authorized to execute the same.

B. The Agreement with Faden Builders, Inc., attached hereto as **Exhibit "B"** is approved and the Mayor, or designee thereof, is authorized to execute the same.

C. The Agreement with Wharton-Smith, Inc., attached hereto as **Exhibit "C"** is approved and the Mayor, or designee thereof, is authorized to execute the same.

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such actions as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City pertaining to the solicitation for construction manager at risk services for Citywide projects which are less than Two Million Dollars, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

Signatures on Following Page

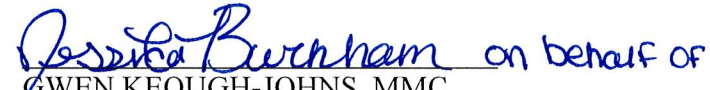
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PASSED AND ADOPTED this 7th day of April, 2020.



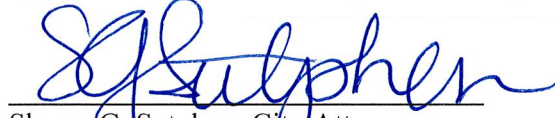
CATHERINE T. HOECHST,
MAYOR of the City of Mount Dora, Florida

ATTEST:



on behalf of
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only.
Approved as to form and legal sufficiency.



Sherry G. Sutphen, City Attorney

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Exhibit "A"

Agreement with Evergreen Construction Group of Florida, LLC
for construction manager at risk services on an as-needed basis
for Citywide projects which are less than Two Million Dollars
RFQ-19-GS-018

Resolution No. 2020-24
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AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

THIS AGREEMENT made by and between the City of Mount Dora, a municipal corporation of the State of Florida, 510 N. Baker Street, Mount Dora, Florida 32757, the Community Redevelopment Agency of the City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757, the Northeast Community Redevelopment Agency of the City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757, hereinafter singly and collectively referred to as "Owner" and Evergreen Construction Management, Inc., 30941 Suneagle Drive, Mount Dora Florida 32757, hereinafter "Construction Manager".

ARTICLE I THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT

The Construction Manager accepts the relationship of trust and confidence established between it and the Owner by this Agreement. The Construction Manager covenants with the Owner to furnish its best skill and judgment and to cooperate with the Architect-Engineer in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and superintendence and use its best efforts to complete the various City project(s) in the soundest and most expeditious and economical manner, consistent with the interests of the Owner.

I.1 The Construction Team:

The Construction Manager, the Owner and the Architect-Engineer, called the "Construction Team", shall work jointly during design and through final construction completion and shall be available thereafter should additional services be required related to the Project. The Architect and the Construction Manager shall communicate through the Owner, except as may otherwise be provided in this Agreement or when direct communications have been specifically authorized by the Owner. The Construction Manager shall copy the Owner on all correspondence sent to or received from the Architect or any of its consultants of which the Owner was not copied.

The specific representatives of the Construction Team shall be established at the time of approval of each Task Authorization.

I.2 Extent of Agreement:

This Agreement for pre-construction and construction management services for the Project, between the Owner and the Construction Manager supersedes any prior negotiations, representations or agreements. The City will from time to time issue a Task Authorization to the Construction Manager, in the form attached hereto as **Exhibit "A"**, for individual City projects which may include either pre-construction and construction management services or construction management services only. If pre-construction services are required as part of a Project, an initial Task Authorization will be issued by the City Manager if the cost of the pre-construction services is within the City Manager's purchasing authority. Thereafter, once the drawings, specifications and other descriptive

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documents for the Project are complete, an Amendment to Task Authorization in the form attached hereto as **Exhibit "B"**, will be issued following approval by the City Council of the guaranteed maximum price (GMP) for the specific construction management work to be completed for the Project. In the event pre-construction services exceed the City Manager's purchasing authority, a Task Authorization for the pre-construction services will be issued on the appropriate form, following approval of the same by the City Council. Thereafter, once the drawings, specifications and other descriptive documents for the Project are complete, an Amendment to Task Authorization, which shall include the GMP for the specific construction management work to be completed for the Project, shall be issued on the appropriate form following approval by the City Council. In the event pre-construction services are not required for a Project, once the drawings, specifications and the other descriptive documents for a Project have been approved, a Task Authorization will be issued following approval of the GMP for the Project by the City Council. To expedite the preparation of the GMP Amendment by the Owner, the Construction Manager shall obtain two (2) sets of dated drawings, specifications and other documents upon which the GMP is based from the Architect-Engineer via the Owner. The Construction Manager shall acknowledge on the face of each set of drawings, that it is the set upon which the GMP is based. Thereafter one set of the documents shall be sent to the Owner along with the GMP proposal. This Agreement shall not be superseded by any provisions/revisions of the documents for construction and may be amended only by written instrument signed by both Owner and Construction Manager.

- 1.3 Definitions: The following definitions shall be applicable to this Agreement. Any words which are not set forth below but are found capitalized throughout this Agreement shall have the meanings established in the various Articles and/or Sections of this Agreement:

Architect-Engineer - To be determined by the Owner as applicable for each separate Project for which a Task Authorization is issued.

Construction Documents - This Contract, the Drawings, Specifications and related Construction Documents or any other documents incorporated herein by reference.

Construction Manager – Evergreen Construction Group of Florida, LLC

Estimate - The Construction Manager's latest estimate of probable project construction costs

Final Completion - The following items have been completed or satisfied:

1. Construction of the Project is totally complete, including all work on the Contract Documents and certified as such by the Owner and Architect.
2. The Project is suitable for full use and occupancy as determined by the Owner and Architect.

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3. All Punch List items have been completed or otherwise disposed of or accounted for to the Owner's satisfaction and approval.
4. A Final Certificate of Occupancy and all other permits and approvals required have been legally and validly issued.
5. Final executed Releases of Lien have been delivered to the Owner by Construction Manager.

General Conditions - Those items that are not specific to any trade and are required for the construction of the Project. Examples of General Conditions items include daily cleanup and safety rails.

Owner - City of Mount Dora, a municipal corporation of the State of Florida, on behalf of itself, the Community Redevelopment Agency of the City of Mount Dora (CRA) pursuant to Resolution 2020-24 (CRA) and the Northeast Community Redevelopment Agency of the City of Mount Dora (Northeast CRA) pursuant to Resolution 2020-24 (Northeast CRA).

Owner's Representative - The Owner's Representative is its Construction Project Manager, who is Chet Cramer, or such other individual designated, in writing, by the City Manager.

Project - The Project shall mean the total work to be performed under each Task Authorization, or Amendment thereto, issued pursuant to this Agreement. The Project may consist of pre-construction planning, design and permitting services, as well as construction and code inspection services for various construction projects which do not exceed Two Million Dollars in total construction costs.

Punch List - List of items of work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to final acceptance/completion.

Substantial Completion Date - The date, certified by the Architect, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and a Certificate of Occupancy issued, so that the Owner can reasonably occupy or utilize the Project, or designated portion thereof, for its intended use. Additionally, complete all items referred to as necessary for Substantial Completion.

Task Authorization or Amendment to Task Authorization - The document issued to the Construction Manager which sets forth the service expectations, schedules, pricing/GMP, construction team and subcontractors for a specified Project.

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1.4 Owner's Construction Budget:

Owner's funds budgeted and requested for construction of the Project: The Owner's Construction Budget for each Project is Two Million Dollars or less, including all preconstruction services, Construction Manager fees, costs of the work and the Owner's and Construction Manager's construction and interface contingencies as defined in Articles 8 and 9. This acknowledgment of the Owner's budgeted funds is not to be construed as the Construction Manager's Guaranteed Maximum Price. A Guaranteed Maximum Price will be offered by separate documentation as outlined in Article 7.

ARTICLE 2 **CONSTRUCTION MANAGER'S SERVICES**

The services which the Construction Manager shall provide include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned.

2.1 Project Management Information System (PMIS):

1. General:

- A. Commencing immediately after contract award, the Construction Manager shall implement and shall utilize throughout the life of this Contract all subsystems of the Project Management Information System hereinafter referred to as PMIS.
- B. The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the Owner and the Architect-Engineer monthly.
- C. If requested by the Owner, the Construction Manager shall conduct a comprehensive workshop for participants designated by the Owner and additional seminars as required, to provide instruction. This workshop and the seminars shall facilitate each participant's and the Owner's representatives' use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect-Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the Owner and the Architect-Engineer, procedures for accomplishing the management control aspect of the Project.
- D. The PMIS shall be described in terms of the following major subsystems:
 - 1. Narrative Reporting, on a monthly basis,

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2. Schedule Control, on a monthly basis,
3. Cost Control, and estimating,
4. Project Accounting,
5. Accounting and Payment, and
6. Action Reports.

2. Narrative Reporting Subsystem:

- A. The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8.5" X 11" format, unless directed otherwise by the Owner.
- B. The Narrative Reporting Subsystem shall include the following reports:
 1. Monthly Executive Summary - which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including code violations found by any permitting authority.
 2. Monthly Cost Narrative - describing the current construction cost estimate status of the Project.
 3. Monthly Scheduling Narrative - summarizing the current status of the overall project schedule. This report shall include an analysis of the various project schedules, a description of the critical path, and other analyses as necessary to compare planned performance with actual performance.
 4. Monthly Accounting Narrative - describing the current cost and payment status of the entire project. This report shall relate current encumbrances and expenditures to the budget allocations.
 5. Monthly Construction Progress Report - summarizing the work of the various subcontractors during the construction phase. This report shall include information from the weekly job site meetings, as applicable, such as general conditions, long lead supplies, current deliveries, safety and labor relations programs permits, construction problems and recommendations and plans for the succeeding month.
 6. Daily Construction Diary - during the construction phase describing events and conditions on the site.

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- C. The reports outlined above shall be bound with applicable computer reports and submitted monthly during design and construction phases and shall be current through the end of the preceding month. Copies shall be transmitted to the Owner and the Architect-Engineer and others as designated by the Owner's Representative with the monthly pay requisition. Additional copies of the report outlined above shall be bound separately and distributed monthly as directed by the Owner's Representative.
 - D. The report outlined in Article 2.1(2)(B)(6) above shall be maintained at the site available to the Owner and Architect-Engineer. A bound copy of the complete Daily Construction Diary shall be submitted to the Owner at the conclusion of the Project
3. Scheduled Control Subsystem:
- A. Master Project Schedule - Within thirty (30) days of award of this Agreement, the Construction Manager shall submit, to the Owner for approval, a master project schedule covering the planning and design approvals, construction and Owner occupancy of the Project. This schedule shall serve as the framework for the subsequent development of all detailed schedules. The master project schedule shall be produced and updated monthly throughout the project. Revisions, activity additions, activity deletions and/or logic changes to the Master Project Schedule, or any other schedule previously approved by the Owner, shall not be made without the Owner's approval.
 - B. Within thirty (30) days after the date of the Owner's issuance of a Notice to Proceed with construction, the Construction Manager shall prepare and submit for approval, to the Owner's Representative, a construction schedule in quadruplicate with sufficient detail to graphically depict the activities contemplated for completion of the Project and which shows the sequence that the Construction Manager proposes for each such activity to occur and the duration (dates of commencement and completion, respectively) of each such activity. The Owner shall determine whether the construction schedule developed and submitted by the Construction Manager meets the requirements stated herein and thereafter such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a construction schedule as set forth hereinabove shall be sufficient grounds for the Owner to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the contract or to withhold payment to the Construction Manager until a schedule acceptable to the Owner is submitted.
 - C. During the period of time required to finally complete the Project, at the end of each such calendar month or at such earlier intervals as circumstances may require, the Construction Manager shall update the construction

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schedule to show the actual progress of the work performed and the occurrence of all events which have affected the progress of performance of the work already performed or will affect the progress of the performance of the work yet to be performed in contrast with the planned progress of performance of such work, as depicted on the original construction schedule and all updates thereto as reflected in the updated construction schedule last submitted. Each such update to the construction schedule shall be submitted to the Owner in duplicate. Failure of the Construction Manager to update, revise and submit the construction schedule as set forth herein shall be sufficient grounds for the Owner to find the Construction Manager in substantial default, and certify that sufficient cause exists to terminate the Contract or to withhold payment to the Construction Manager until a schedule or schedule update acceptable to the Owner is submitted. No revisions, activity additions, activity deletions or logic changes shall be made without the Owner's approval, which shall not be unreasonably withheld.

- D. When required by the Owner, the Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:
1. Subcontractor Construction Schedules - Upon the award of each sub-contract, the Construction Manager shall jointly, with the subcontractor, develop a schedule which is more detailed than the pre-bid schedule included in the specifications, taking into account the work schedule of the other subcontractors. The construction schedule shall include as many activities as necessary to make the schedule an effective tool for construction planning and for monitoring the performance of the subcontractor. The construction schedule shall also show pertinent activities for material purchase orders, shop drawing schedules and material delivery schedules.
 2. Occupancy Schedule - The Construction Manager shall jointly develop with the Architect-Engineer and Owner a detailed plan, inclusive of punch lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Owner occupancy. The Occupancy Schedule shall be produced and updated monthly from its inception through final Owner occupancy.
- E. All schedules will be provided to the Owner in an electronic format acceptable to the Owner. The Construction Manager will provide the Owner with the appropriate software, if necessary, to read the data. The cost of providing the licenses and software shall be part of the cost of construction and included as part of Article 9, Direct Costs of the Project.

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4. Budget Control Subsystem:

The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the Project requirements, needs, materials, equipment and systems by building and site elements so that construction will be completed at a cost which, together with all other Project costs, will not exceed the maximum total Project budget. Requirements of this subsystem include the following submissions at the following phases of the project:

Estimates - Prior to the start of pre-construction services, the requirement of the following estimates will be determined by the Owner:

- A. Completion of Schematic Documents.
- B. Completion of fifty percent (50%) Design Development Documents.
- C. Completion of one hundred percent (100%) Design Development Documents.
- D. One hundred percent (100%) GMP Estimate - When the Construction Documents are sufficiently complete enough to establish the GMP.

5. Project Accounting Subsystem:

The operation of this subsystem shall enable the Construction Team to monitor and control the funds available for the Project, cash flow, costs, change orders, payments and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, amounts payable and to plan effectively. This subsystem will be produced and updated monthly and includes the following reports, which together will serve as a basic accounting tool and an audit trail. This report will also provide for accounting by building and site element.

- A. Cost Status Report - presenting the budget, estimate and base commitment for any given contract or budget line item. It shall show approved change orders for each contract which when added to the base commitment will become the total commitment. Pending change orders will also be shown to produce the total estimated probable cost to complete the work.
- B. Payment Status Report - showing the value in place, both current and cumulative, the amount invoiced (both current and cumulative), the amount retained, the amount payable (both current and cumulative) and the balance remaining. A summary of this report shall accompany each pay request.
- C. Detailed Status Report - showing the complete activity history of each item in the Project accounting structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the change order history including change order numbers, description, proposed and

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approved dates and proposed and approved dollar amounts. Pending or rejected change orders shall also be shown.

- D. Cash Flow Diagram - showing the projected accumulation of cash payments against the project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments.
- E. Job Ledger - shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The Job Ledger will be used to provide construction cost accountability for general conditions work, on-site reimbursable expenses and costs requiring accounting needs.

2.2 Project Manual:

When directed by the Owner, the Construction Manager shall provide the following:

1. Upon issuance of a Task Authorization, the Construction Manager shall develop a draft comprehensive Project Manual describing the services set forth in this Contract for Owner's approval, providing a plan for the control, direction, coordination and evaluation of work performed, including identification of key personnel, responsibilities of Construction Manager, responsibilities of Owner and responsibilities of the specified Architect-Engineer, work flow diagrams and strategy for bidding the work. The Project Manual shall be updated as necessary with the Owner's approval throughout the design, construction and Owner occupancy phases. Two copies of the Project Manual and any updates shall be submitted to the Owner and Architect-Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the Owner and the Architect-Engineer.
2. Contents of Project Manual - The Project Manual shall describe in detail the procedures for executing the work and the organizations participating. The Project Manual shall include as a minimum the following sections:
 - A. Project Definition - The known characteristics of the project or sub-projects shall be described in general terms which will provide the participants a basic understanding of the project or sub-projects.
 - B. Project Goals - The schedule, budget, physical, technical and other objectives for the Project shall be defined.
 - C. Project Strategy - A narrative description of the Project delivery methods being utilized to accomplish the project goals shall be listed.
 - D. Project Work Plan - A matrix display of the program of work to be performed by the Construction Manager, the Architect-Engineer and the Owner during each phase of the Project.

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- E. Project Organization - A summary organization chart showing the interrelationships between the Owner, the Construction Manager and the Architect-Engineer, and other supporting organizations and permitting review agencies. Detailed charts shall be included, one each for the Construction Manager, the Architect Engineer and the Owner, showing the organizational elements participating in the Project.
- F. Responsibility Performance Chart - A detailed matrix showing the specific responsibilities and interrelationships of the Owner, the Architect Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the project, and also for the personnel of the Owner and the Architect-Engineer from data supplied by each.
- G. Flow Diagrams - Charts displaying the flow of information and the decisional process for the review and approval of shop drawings, submittals, progress and change orders.
- H. Written Procedures – Procedures for communications and coordination required between Construction Team members throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews and other necessary communications.

2.3 Design and Review and Recommendations:

The Construction Manager shall perform the services described in this Article. The services to be provided herein constitute the Pre-construction phase services. The parties acknowledge the Construction phase may commence before the Pre-construction phase is completed, and to a certain extent both phases may proceed concurrently.

- 1. Preliminary Evaluation - The Construction Manager shall provide a preliminary evaluation of the Owner's Project and Project budget requirements, each in terms of the other.
- 2. Consultation - The Construction Manager will jointly schedule and attend regular meetings with the Owner and Architect. The Construction Manager will consult with the Owner regarding site use and improvements, and the selection of materials, building systems and equipment. The Construction Manager will provide recommendations on construction feasibility; actions designated to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets, and possible economies.

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3. Phased Construction - The Construction Manager shall make recommendations to the Owner regarding the phased issuance of Drawings and Specifications to facilitate phased construction of the Project, if such phased construction is appropriate for the Project, taking into consideration such factors as economies, time of performance, availability of labor and materials, and provisions for temporary facilities, if applicable.
4. Review Reports - Within thirty (30) days after receiving the Construction Documents for each phase of the Project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Articles 2.3(1) and 2.3(2) above and on factors set out in Article 2.3(7) below. Promptly after completion of the review, the Construction Manager shall submit to the Owner, with copies to the Architect-Engineer, a written report covering suggestions or recommendations previously submitted, additional suggestions or recommendations as may be deemed appropriate, and all actions taken by the Architect-Engineer with respect to same, any comments deemed to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2.3(7).

THE CONSTRUCTION MANAGER SHALL WARRANT, TO THE BEST OF THE CONSTRUCTION MANAGER'S KNOWLEDGE, WITHOUT ASSUMING ANY ARCHITECTURAL OR ENGINEERING RESPONSIBILITY, THAT THE PLANS AND SPECIFICATIONS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. THE CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE PLANS AND SPECIFICATIONS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.

The recommendations and advice of the Construction Manager concerning design alternatives shall be subject to the review and approval of the Owner and Owner's professional consultants. Construction Manager shall not assume in anyway the responsibilities of the Architect, in particular, the responsibility of assuring that the drawings and specifications, which shall be identified for each Project prior to the time the GMP is determined, are in accordance with applicable laws, statutes, ordinances, Building Codes, Rules and Regulations; however, if the Construction Manager recognizes that portions of the Drawings and Specifications are inconsistent with applicable laws, statutes, ordinances, Building Codes, Rules and Regulations, the Construction Manager shall promptly notify the Architect and the Owner, in writing.

5. Long Lead Procurements - The Construction Manager shall review the design for the purpose of identifying long lead procurement items such as machinery, equipment, materials and supplies. When each item is identified, the Construction Manager shall notify the subcontractors, the Owner and the Architect-Engineer of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected sub-contracts. The Construction

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Manager shall keep himself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items and advise Owner and Architect-Engineer of any problems or prospective delay in delivery. The Construction Manager may recommend to the Owner a schedule for procurement of the long-lead time items, which will constitute part of the work, as required to meet the Project Schedule. If such long-lead time items are procured by the Owner, they shall be procured on terms and conditions acceptable to the Construction Manager. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, all contracts for such items shall be assigned by the Owner to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall assist in expediting the delivery of long-lead time items.

6. Separate Contracts Planning - Without assuming any design responsibilities, the Construction Manager shall review the design with the Architect-Engineer and make recommendations to the Owner with respect to dividing the work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule while the design is being completed. He shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the Owner.
7. Interfacing -
 - A. The Construction Manager shall take such measures as are appropriate to provide that all construction requirements will be covered in the separate subcontracts for procurement of long lead items, the separate construction subcontracts and the General Conditions items performed without duplication or overlap, sequenced to maintain completion of all work on schedule. Particular attention shall be given to provide that each bid package clearly identifies the work included in that particular separate subcontract, its schedule for start and completion and its relationship to other separate contractors.
 - B. Without assuming any design responsibilities of the Architect-Engineer, the Construction Manager shall include in the reports required under Article 2.3(4) comments on overlap with any other separate subcontracts, omissions, lack of correlation between drawings, and any other deficiencies noted, in order that the Owner and Architect-Engineer may arrange for necessary corrections.
8. Job-Site Facilities - The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Manager and the Owner's

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representatives and the Architect-Engineer to perform their respective duties in the management, inspection, and supervision of construction.

Tangible personal property otherwise referred to as job-site facilities, include but are not limited to such things as trailers, toilets, computers and any other equipment necessary to carry on the Project. The method of acquiring such job-site facilities, which are planned to become the property of the Owner at the conclusion of the Project, shall be evaluated based on cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing and then analyzing which is least expensive over the usage life of the item. The Construction Manager shall present his evaluation with recommendation to the Owner for approval.

When the Construction Manager wishes to supply job-site facilities from his own equipment pool, he shall first evaluate buy versus lease as discussed in the paragraph above. If leasing is found to be the least expensive approach, then he may lease such job-site facilities from his own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained.

For all such facilities purchased, which are to become the property of the Owner at the conclusion of the project, the Construction Manager shall maintain care and custody responsibilities of such facilities until the Project conclusion. The cost of such equipment shall be a Direct Cost of the Project, as defined in Article 9. At the conclusion of the Project, the Construction Manager shall provide the Owner with a complete inventory for each unit of equipment that has been purchased for the Owner. The inventory shall describe the equipment and identify the purchase price, serial number, model number, current location, and condition. Where said equipment has a title, said title shall be properly transferred to the Owner or to his designee.

The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the Owner, the Owner may refuse acceptance of the equipment if the Owner determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager. In such event, the Construction Manager shall reimburse Owner for such item.

9. Weather Protection - The Construction Manager shall ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. The Construction Manager shall submit, to the Construction Team, recommendations as to needed requirements of this nature and as to the contract or contracts in which such weather protection requirements should be included. The Construction Manager is totally responsible for all weather protection necessary to ensure that all new construction

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and renovation projects are adequately protected from the normal inclement elements.

10. Market Analysis and Stimulation of Bidder Interest -

- A. The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for completing the Project; the Construction Manager shall make analysis as necessary to (1) determine and report on availability of labor, material, equipment, potential bidders, and possible impact of any shortages or surplus of labor or material, and (2) in light of such determinations, make recommendations to the Owner as may be appropriate with respect to long lead procurement, separation of construction into bid packages, sequencing of work, use of alternative materials, equipment or methods, other economics in design or construction, and other matters that will promote cost savings and completion within the scheduled time.
- B. The Construction Manager shall submit to the Owner a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, the Construction Manager shall submit to the Owner and the Architect-Engineer a list of potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the local market place and identify and encourage bidding competition.
- C. The Construction Manager shall carry out an active program of stimulating interest of qualified contractors in bidding on the work and of familiarizing those bidders with the requirements of this project.

2.4 Construction Phase:

- 1. Construction Manager's Staff - The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the work and progress of the subcontractors and the Construction Manager shall provide no less than those personnel during the respective phases of construction as are identified at the time the GMP is determined. The Construction Manager shall not change any of those persons named at the time the GMP is determined unless mutually agreed to by the Owner and Construction Manager. In such case, the Owner shall have the right to approve the qualifications of any replacement personnel. Such approval will not be unreasonably withheld.
- 2. Lines of Authority - The Construction Manager shall establish and maintain lines of authority for its personnel, and shall provide notice of the same to the Owner and

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all other affected parties such as the code inspectors of the Permitting Authority, the subcontractors, the Architect-Engineer and the Owner's representatives, in order to provide general direction of the work and progress of the various phases and subcontractors. The Owner and Architect-Engineer may attend meetings between the Construction Manager and his subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontractors.

3. Schedule and Project Manual Provisions - The Construction Manager shall provide subcontractors and the Owner, its representatives and the Architect-Engineer with copies of the Project Manual, a total number of copies not to exceed seven (7) hard copies and an electronic version in a format acceptable to the Owner, developed and updated as required by Article 2.2, expanded for the Construction Phase, employing the respective milestones, beginning and finishing dates, the respective responsibilities for performance and the relationships of the work with respect to subcontractors and suppliers. The Construction Manager shall also continue to provide current and up to date scheduling information, direction and coordination regarding milestones, and beginning and finishing dates. Furthermore, the Construction Manager shall be responsible for performance and the relationships of the Construction Manager's work to the work of its subcontractors and suppliers to enable the same to perform their respective tasks so that the development of construction progresses in a smooth and efficient manner in conformance with the overall project schedule. The schedule shall include all phases of the construction work, material supplies, long lease procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance testing requirements. The Construction Manager shall advise the Owner, its representatives and the Architect-Engineer of their required participation in any meetings or inspections, giving each at least one weeks-notice, unless such notice is made impossible by conditions beyond the control of the Construction Manager. The Construction Manager shall hold job-site meetings at least once each month with the Construction Team or more frequently as required by work progress, to review progress, discuss problems and solutions and to coordinate future work with all subcontractors.
4. Solicitation of Bids -
 - A. Without assuming responsibilities of the Architect-Engineer, the Construction Manager shall prepare invitations for bids, or requests for proposal when applicable, for all procurement of long lead items, materials and services, for Subcontractor contracts and for site utilities. Such invitations for bids shall be prepared in accordance with the following guidelines:

Those portions of the work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with

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- the Construction Manager. The Construction Manager shall obtain bids from subcontractors, vendors, consultants and from suppliers of materials or equipment fabricated to a special design for the work. The Construction Manager shall strive to receive at least three (3) competitive bids per trade package. Should the nature of the trade package prohibit three (3) competitive bids, the Construction Manager shall notify the Owner in writing as to the reason and offer suggestions, if any, to create trade interest.
- B. The Construction Manager shall be responsible for coordinating with the Architect-Engineer and preparing all information that is the responsibility of the Construction Manager for bidding of the separate bid packages.
 - C. As part of such preparation, the Construction Manager shall review the specifications and drawings prepared by the Architect-Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Construction Manager shall be brought to the attention of the Owner and Architect-Engineer in written form.
 - D. The Construction Manager and the Owner's Representative shall mutually agree when and if to conduct a pre-bid conference with prospective bidders and the Architect-Engineer. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the Owner and the Architect-Engineer and upon receiving clarification or correction in writing shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.
 - E. The Construction Manager shall not enter into contracts without the Owner reviewing the proposed successful bidder. The Owner shall promptly, within three (3) business days, review all proposals and provide comments so as not to cause delay in the award of a contract. Owner's failure to respond within this time frame shall constitute acceptance of the proposed contract. Owner shall have the right to reject any award of subcontract providing such rejection is justifiable and with cause. Should the Owner reject a proposal and should the next bondable, qualified bidder that is acceptable to the Construction Manager, be greater than the GMP budget for that work item, the Owner shall issue a change order to the Construction Manager, increasing the GMP, for the amount of the difference between the proposed award and that which the Owner has requested.
5. Bonds - In accordance with the provisions of Florida Statutes, Section 255.05, the Construction Manager shall provide to the Owner, on forms furnished by the Owner, a one hundred percent (100%) Performance Bond and a one hundred percent (100%) Labor and Material Payment Bond each in an amount not less than the total construction cost as defined in Articles 7, 8 and 9. To be acceptable to the

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Owner, as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:

- A. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.
- B. The Surety Company shall have currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
- C. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
- D. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time a bond is issued.
- E. The Surety Company shall have at least the following minimum ratings in the latest issue of Best's Key Rating Guide.

Contract Amount	Policy Holder's Rating	Required Financial Rating
\$500,000 to \$1,000,000	A	Class IV
\$1,000,000 to \$2,500,000	A	Class V
\$2,500 000 to \$5,000 000	A	Class VI
\$5,000,000 to \$10,000 000	A	Class VII
\$10,000,000 to \$25,000,000	A	Class VIII
\$25 000 000 to \$50,000,000	A	Class IX
\$50,000,000 to \$75,000,000	A	Class X

- 6. Quality Control - The Construction Manager shall develop and maintain a written program, acceptable to the Owner and Architect-Engineer, to assure quality control of the construction. He shall supervise the work of all subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and he shall continue to exert his influence and control over each subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the work. Should disagreement occur between the Construction Manager and Architect-Engineer over acceptability of

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

7. Subcontractor Interfacing - The Construction Manager shall be the single point of interface with all subcontractors for the Owner and all of its agents and representatives including the Architect-Engineer. He shall negotiate all change orders, field orders and request for proposals, with all affected subcontractors and shall review the costs of those proposals and advise the Owner and Architect-Engineer of their validity and reasonableness, acting in the Owner's best interest prior to requesting approval of each change order from the Owner. Before any work begins on any change order, a written authorization from the Owner must be issued. However, when health and safety are threatened, the Construction Manager shall act immediately to remove the threat to health and safety. The Construction Manager shall carefully review all shop drawings and forward the same to the Architect for review and action. The Architect shall transmit them back to the Construction Manager who will then issue the shop drawings to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote expeditious handling. The Construction Manager shall request the Architect-Engineer via the Owner to make interpretations of the drawings or specifications requested of the Construction Manager by the subcontractors and shall maintain a suspense control system to promote timely response. The Construction Manager shall advise the Owner and Architect-Engineer when timely response is not occurring on any of the above.
8. Permits - The Construction Manager shall secure all necessary building permits from the Permitting Authority and all necessary utility connection permits, the cost of which will be considered a Direct Cost of the project, but not subject to a Construction Phase Fee, as described in Article 8.1(3).
9. Job Site Requirements -
 - A. The Construction Manager shall provide for each of the following activities as a part of its Construction Phase Cost:
 1. Maintain a log of daily activities, including manpower records, weather, delays, major decisions, etc.
 2. Maintain a roster of companies on the project with names and telephone numbers of key personnel.
 3. Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.
 4. Provide labor relations management for a harmonious, productive project.

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5. Provide a safety program for the project to meet OSHA requirements. Monitor for subcontractor compliance without relieving any subcontractor of responsibilities to perform work in accordance with the best acceptable practices.
 6. Provide a quality control program.
 7. Provide miscellaneous office supplies that support the construction efforts.
 8. Travel to and from its home office to the project site, as the project requires.
- B. The Construction Manager shall provide personnel and equipment or shall arrange for separate subcontracts to provide each of the following as a direct cost item:
1. Schedule the services of independent testing laboratories for the necessary testing of materials to ensure conformance to contract requirements.
 2. The printing and distribution of all required bidding documents and shop drawings, including the sets required by the Permitting Authority's inspectors.
10. Job Site Administration - The Construction Manager shall provide administrative functions during construction to assure proper documentation, including but not limited to such things as the following:
- A. Job Meetings - Hold weekly progress and coordination meetings to provide for an easy flowing project implementation process, assure timely submittals, expedite processing approvals and return of shop drawings and samples; Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing and labor allocation; Review and coordinate each subcontractor's work; Review and implement revisions to the project schedule; Monitor and promote safety requirements.
- Use the job site meeting as a tool for planning of work and enforcing schedules and for establishing procedures, responsibilities, and identification of authority for all to clearly understand.
- Identify party or parties responsible for follow up on any problems, delay items or questions and record course for solutions. Revisit each pending item at each subsequent meeting until resolution is achieved. Require all present to make any problems or delaying events known to those present for appropriate attention and resolution.

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A regular monthly project status meeting will be held between the Architect-Engineer, Owner and Construction Manager.

- B. Shop Drawing Submittals/Approvals - Provide staff to check shop drawings and to implement procedures to be approved by Owner for submittal and transmittal to the Architect-Engineer and Owner of such drawings for action, and closely monitor their submittal and approval process.
- C. Material and Equipment Expediting - Provide staff to closely monitor material and equipment deliveries and to implement checking and follow-up procedures on supplier commitments of all subcontractors.
- D. Payments to subcontractors - Develop and implement a procedure for review, processing and payment of applications by subcontractors for progress and final payments.
- E. Document Interpretation - Refer all questions for interpretation of the documents prepared by the Architect-Engineer to the Architect-Engineer through the Owner.
- F. Reports and Project Site Documents - Record the progress of the project. Submit written progress reports to the Owner and the Architect-Engineer, including information on the subcontractor's work and the percentage of completion. Keep a daily log available to the Owner, the Architect-Engineer and the Permitting Authority inspectors.
- G. Subcontractor's Progress - Prepare periodic punch lists for the subcontractor's work including unsatisfactory or incomplete items and schedules for their completion.
- H. Substantial Completion - Ascertain when the work, or designated portions thereof, are ready for the Owner's and the Architect-Engineer's substantial completion inspection. Prior to the Owner's and Architect's pre-substantial completion inspection, the Construction Manager shall issue a list of incomplete items. After the Owner's and the Architect-Engineer's inspection, the Construction Manager shall prepare a schedule for the completion of the list, indicating completion dates for the Owner's review. The Owner and the Architect-Engineer will issue a Certificate of Substantial Completion in the format prescribed in **Exhibit "C"**, when the work on the Construction Manager's pre-substantial Punch List has been accomplished, to the best of the Construction Manager's ability.
- I. Final Completion - Monitor the Subcontractor's performance on the completion of the Project and provide notice to the Owner and Architect-Engineer that the work is ready for final inspection. Secure and transmit to the Owner, through the Architect-Engineer, all required guarantees,

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affidavits, releases, bonds and waivers, manuals, record drawings and maintenance books, including issuance of the Certificate of Final Completion attached as **Exhibit "D"**.

- J. Start-Up - With the Owner's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade contractors.
 - K. Record Drawings - The Construction Manager shall monitor the progress of its own forces or its Subcontractors on marked up field prints, which at project completion, shall be sent to the Architect-Engineer through the Owner who will prepare the final record drawings. Continuously review "As-Built" Drawings and mark up progress prints to provide as much accuracy as possible.
11. Administrative Records - The Construction Manager may be required to maintain, at the job site, current and up to date files and records such as, but not limited to the following:

- Contracts or Purchase Orders
- Davis Bacon Federal Compliance Documents
- ARRA / Build America Bonds Compliance Documentation
- Shop Drawing Submittal/Approval Logs
- Equipment Purchase/Delivery Logs
- Contract Drawings and Specifications with Addenda
- Warranties and Guarantees
- Cost Accounting Records:
 - Labor Costs
 - Material Costs
 - Equipment Costs
- Cost Proposal Requests
- Payment Request Records
- Meeting Minutes
- Cost-Estimates
- Bulletin Quotations
- Lab Test Reports
- Insurance Certificates and Bonds
- Contract Changes
- Purchase Orders
- Material Purchase Delivery Logs
- Technical Standards
- Design Handbooks
- "As-Built" Marked Prints
- Operating & Maintenance Instruction
- Daily Progress Reports
- Monthly Progress Reports

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Correspondence Files
Transmittal Records
Inspection Reports
Bid/Award Information
Bid Analysis and Negotiations
Punch Lists
PMIS Schedule and Updates
Suspense (Tickler) Files of Outstanding Requirements
Project Manual
Job Photographs

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

12. Owner Occupancy -

The Construction Manager shall:

Provide services during the design and construction phases, which will provide a smooth and successful Owner occupancy of the Project. The Construction Manager shall provide consultation and project management to facilitate Owner occupancy and provide transitional services to get the work, as completed by the contractors, "on-line" in such conditions as will satisfy Owner operational requirements.

Conduct the Construction Manager's preliminary Punch List inspection and coordinate the completion of all Punch List work to be done with Owner occupancy requirements in mind. The Construction Manager shall videotape all major equipment startup procedures and deliver videos as part of the closeout documents.

Catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey the same to the Owner in such a manner as to promote their usability. The Construction Manager shall provide operational training, in equipment use, for all such operators.

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

The Owner may occupy or take control of portions of the Project providing the above items discussed in this paragraph have been completed and the "Substantial Completion", "Start-Up", "Record Drawing", and "Warranty" requirements specified in Article 2.4 above have been completed to the Owner's satisfaction for the portions to be occupied, excluding the requirements for a warranty inspection eleven (11) months after Owner Occupancy.

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13. Warranty -

Where any work is performed by the Construction Manager's own forces or by subcontractors under contract with the Construction Manager, the Construction Manager shall warrant that all materials and equipment included in such work will be new except where indicated otherwise in Contract Documents, and that such work will be of good quality, free from improper workmanship and defective materials and in conformance with the Contract Documents. With respect to the same work, the Construction Manager further agrees to correct all work found by the Owner to be defective in material and workmanship or not in conformance with the Contract Documents for a period of one year from the date of Substantial Completion or partial occupancy of any portion of the building, whichever comes first, or for such longer periods of time as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Construction Manager shall collect and deliver to the Owner any specific written warranties given by others as required by the Contract Documents. In addition, the Construction Manager shall conduct, jointly with the Owner and the Architect-Engineer, a warranty inspection in approximately eleven (11) months after the date of Owner Occupancy.

ARTICLE 3 OWNER'S RESPONSIBILITIES

3.1 Owner's Information:

The Owner shall provide full information regarding its requirements for the Project.

3.2 Owner's Representatives:

The Owner shall designate in writing any additional representatives authorized to act on the Owner's behalf with respect to the Project, not previously defined in Article 1.3, together with the scope of his/her respective authority. In no event shall any delegation of authority be contrary to state or county laws or codes. Functions to be performed by the Owner as set forth in this Agreement can be delegated by the Owner only by written notice to the Construction Manager from the Owner. The Construction Manager shall be entitled to rely on directions, and it shall be required to follow such directions, from the Owner's Representative designated in Article 1.3 and such other representatives from time to time designated in writing within the authority conferred by the City of Mount Dora City Council in this Agreement or any Amendment or Change Order to this Agreement. The City of Mount Dora City Council hereby authorizes the Article 1.3 Owner's Representative to: (1) act as the Owner's agent and execute documents associated with this Project. Examples of these documents are Construction Manager's Contingency Authorizations, Notices of Commencement, Certificates of Substantial Completion and permits from applicable agencies; (2) administer, coordinate, interpret and otherwise manage the contractual provisions and requirements of this Agreement; (3) negotiate a duly authorized Change Order on behalf of the Owner; and (4) issue a duly authorized purchase order,

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memorandum, letter or other instrument covering the services and work to be provided pursuant to this Agreement. Directions and decisions made by Owner's Representatives shall be binding on the Owner.

The City of Mount Dora City Council additionally authorizes the City Manager, in conjunction with the Owner's Representative, to authorize changes in the work up to \$35,000.00 (Thirty-five Thousand and 00/100 Dollars) or such other dollar amount as authorized by policy adopted by the City Council. Said work can be funded from the Owner's Contingency and shall not cause an increase to the overall project budget.

3.3 Architect-Engineer's Agreement:

The Owner shall retain an Architect-Engineer for design and to prepare Construction Documents for the Project. The Architect-Engineer's services, duties and responsibilities are described in the Agreement between the Owner and the Architect-Engineer, a copy of which will be furnished to the Construction Manager. The Agreement between the Owner and the Architect-Engineer shall not be modified without written notification to the Construction Manager.

3.4 Site Survey and Reports:

The Owner shall provide all surveys describing the physical characteristics, soil reports, and subsurface investigations, legal limitations, utility locations and a legal description for the Project.

3.5 Approvals and Easements:

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

3.6 Legal Services:

The Owner shall furnish such legal services as may be necessary for providing the items set forth in Article 3.5 and such document examination and interpretation as may require.

3.7 Drawings and Specifications:

The Construction Manager will be furnished a reproducible set of all copies of Drawings and Specifications reasonably necessary and ready for printing.

3.8 Cost of Surveys and Reports:

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the

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Owner's expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof.

3.9 Project Fault Defects:

If the Owner becomes aware of any fault or defect in the Project or non-conformance with the Drawings and Specifications, it shall give prompt written notice thereof to the Construction Manager and Architect-Engineer.

3.10 Funding:

The Owner shall furnish, in accordance with the established schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project. The Construction Manager shall not commence any work, unless authorized in writing by the Owner.

3.11 Lines of Communication:

The Owner and the Architect-Engineer, through the Owner, shall communicate with the subcontractors or suppliers only through the Construction Manager while such method of communication is effective in maintaining project schedules and quality.

3.12 Permitting & Code Inspections:

The Owner recognizes and coordinates with the appropriate Permitting Authority and expects the Construction Manager to do the same.

ARTICLE 4 PERMITS, FEES AND NOTICES

- 4.1 Unless otherwise provided in the Contract Documents, the Construction Manager shall secure and pay for the building permits, which are customarily secured by a General Contractor.
- 4.2 The Construction Manager shall comply with and give notices, as required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Project.
- 4.3 It is not the Construction Manager's responsibility to ascertain whether the Contract Documents are in accordance with applicable laws, statutes, ordinances, Building Codes and Rules and Regulations; however, if the Construction Manager observes that portions of the Contract Documents are inconsistent therewith, the Construction Manager shall promptly notify the Architect-Engineer and Owner in writing and necessary changes shall be accomplished by appropriate modification.

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- 4.4 If the Construction Manager performs work knowing it to be contrary to applicable laws, statutes, ordinances, Building Codes and Rules and Regulations without such notice to the Architect-Engineer and Owner, the Construction Manager shall assume full responsibility for such work and shall bear all attributable costs and damages.
- 4.5 Cost for all re-inspections of work found to be defective and subsequently repaired, shall be borne by the Construction Manager if such defective work was performed knowingly contrary to applicable laws, statutes, ordinances, Building Codes and Rules and Regulations.

ARTICLE 5 SUBCONTRACTS

5.1 Definition:

A subcontractor is a person or organization who has a direct contract with the Construction Manager to perform any of the work at on the Project. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner or Architect-Engineer and any subcontractor.

5.2 Proposals:

Subject to Article 9 and, in accordance with Article 2.4(4), the Construction Manager shall request and receive proposals from subcontractors and suppliers and will award those contracts to the qualified low bidder after reviewing all proposals with the Owner and Architect-Engineer and all are satisfied that the subcontractor/supplier is qualified to perform work or provide materials for the Project.

5.3 Required Subcontractors' Qualifications and Subcontract Conditions:

1. Sub-contractual Relations - The Construction Manager shall require each Subcontractor to assume all the obligations and responsibilities which the Construction Manager owes the Owner under this Agreement, to the extent of the work to be performed by the Subcontractor. Said agreements shall be made in writing and shall preserve and protect the rights of the Owner and Architect-Engineer under the Contract Documents with respect to the work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each Subcontractor to enter into similar agreements with its sub-subcontractor.

Insurance requirements for Subcontractors shall be no more stringent than those requirements imposed on the Construction Manager by the Owner.

The Construction Manager shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound.

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2. All subcontracts shall provide -

LIMITATION OF REMEDY- NO DAMAGES FOR DELAY

The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Architect-Engineer or attributable to the Owner or Architect-Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim.

In the event of a change in the work, the Subcontractor's claim for adjustments in the contract sum are limited exclusively to its negotiated costs for such changes plus no more than seven percent (7%) for overhead, profit and bond costs.

The subcontract shall require the subcontractor to expressly agree that the foregoing constitutes the sole and exclusive remedy for delays and changes in the work and eliminates any other remedies or claims for increase in the contract price, damages, losses or additional compensation. Each subcontract shall require that any claims by the subcontractor for delay or additional cost must be submitted to the Construction Manager within the time and in the manner in which the Construction Manager must submit such claims to the Owner, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

5.4 Responsibilities for Acts and Omissions:

The Construction Manager shall be responsible to the Owner for the acts and omissions of its employees, agents, subcontractors, the agents thereof and employees thereof, and all other persons performing any of the work or supplying materials for the Project under a contract to the Construction Manager.

ARTICLE 6 SCHEDULE, TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 6.1 At the time a Guaranteed Maximum Price (GMP) is established as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date and an Owner Occupancy Date for completion of the Project in accordance with the master project schedule, shall also be established by the Construction Team. The Construction Manager agrees to complete the construction in accordance with the agreed Substantial Completion Date, Final Completion Date and Owner Occupancy Date. The Construction Manager acknowledges that failure to complete the Project within the construction time set forth in the approved schedule will result in substantial damages to the Owner. These liquidated damages are the sole remedy for delay, shall in no way be deemed a waiver of the Owner's right to all other legal remedies in this Agreement.

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In the event the Construction Manager does not achieve the Substantial Completion Date the Construction Manager shall pay the Owner, as liquidated damages and not as a penalty, in the amount of Five Hundred Dollars (\$500.00) for each calendar day the actual time of performance exceeds the authorized Substantial Completion Date for each separate GMP as applicable.

- 6.2 The date of Owner Occupancy shall occur as described in Article 2.4(12) herein above. Warranties called for by this Agreement or by the Contract Documents shall commence on the Substantial Completion Date, unless otherwise agreed to, in writing, between the Owner and Construction Manager.

ARTICLE 7 **GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION**

- 7.1 When the design documents are sufficiently complete to establish the scope of work for the Project, or any portion thereof, as generally defined by a design document listing to be provided by the Architect-Engineer, or at such time thereafter designated by the Owner, the Construction Manager will establish and submit in writing to the Owner for approval, a Guaranteed Maximum Price (GMP), guaranteeing the maximum price to the Owner, for the construction cost of the Project or designated part thereof. The Construction Manager acknowledges multiple GMPs may be required for the portions of the Project to support the project phasing and schedule. Such Guaranteed Maximum Price will be subject to modification for changes in the Project as provided in Article 10; however, the actual price paid for the work by the Owner shall be the actual cost of all work subcontracts, supply contracts, direct labor costs, direct supervision costs and direct job costs as defined under Article 9, plus the Construction Manager's costs and fees, or the GMP, whichever is less when the work is complete.
- 7.2 The GMP will only include those taxes, in the cost of the Project, which are legally enacted at the time the GMP is established.
- 7.3 At the time of submission of a GMP, the Construction Manager will verify the time schedule for activities and work, which were adopted by the Construction Team and used to determine the Construction Manager's cost of work. Included in the GMP will be a Contractor's Contingency, which is included for the Construction Manager to use, with the Owner's consent. The contingency is intended to cover the costs associated with Project scope that were not adequately detailed at the time of GMP. The Contractor's Contingency is also intended to protect against price increases between the GMP and the completion of the 100% construction documents, as well as for the purpose of defraying the expenses due to unforeseen circumstances relating to construction and for price increases attributable to any code compliance reviews. The Construction Manager will be required to furnish documentation evidencing expenditures charged to the Contractor's Contingency prior to the release of funds by the Owner. Documentation for use of the Contractor's Contingency shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the Project Management Information System. The Architect-Engineer shall verify the actual costs. If there are funds remaining in the Contractor's

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Contingency at the conclusion of the Project, said funds will be returned to the Owner, through deductive change order.

- 7.4 When the Project is bid and one hundred percent (100%) of the trade contracts have been executed, the contingency within the GMP may be decreased in proportion to the percent of the work completed up to a maximum of fifty percent (50%). In other words, if ten percent (10%) of the work has been completed and the Owner requests that the contingency within the GMP be adjusted, then ten percent (10%) of the contingency within the GMP will be removed from the GMP by change order up to a maximum of fifty percent (50%) of the initial GMP contingency value. During the buyout period of the trade contracts, at a point mutually agreed upon between the Owner and Construction Manager, the net amount of the buyout will be reviewed. If the net amount of the total buyout results in excess funds being required, those funds will be taken from the Contractor's Contingency.

If the net amount of the buyout results in a savings, the savings will be assigned to the Owner's Buyout Contingency as defined in Article 7.5

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

- 7.5 The Owner's Buyout Contingency shall be created by the savings generated by subcontractor buyout as set forth in Article 7.4 and also by reductions in scope that otherwise could reduce the GMP. The intent of this Owner's Buyout Contingency is to allow funds already within the GMP to remain in the GMP and be used at the Owner's discretion for scope issues that may become required and/or desired during the course of the Project.

Authorizations up to Thirty-five Thousand and 00/100 Dollars (\$35,000.00), or such other dollar amount as authorized by policy adopted by the City Council, for the use of the Owner's Buyout Contingency, may be granted by the City Manager. Authorizations, for more than Thirty-five Thousand and 00/100 Dollars (\$35,000.00), will be granted by the City Council unless the City Council authorizes an increase in the City Manager's authority for the same.

ARTICLE 8 CONSTRUCTION MANAGER'S COSTS

- 8.1 In consideration of the performance of this Agreement, the Owner agrees to pay the Construction Manager as compensation for his services, costs or fees, as set forth herein.
1. Design Phase/Pre-construction Costs - For the performance of the services set forth under Article 2 and for profit and overhead related to these services, the Construction Manager shall be paid a total amount to be determined prior to the issuance of the Task Authorization. The Design Phase/Pre-construction Costs shall be paid according to the percent complete of the design phase.

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The Construction Manager's personnel to be assigned during this phase and their duties and responsibilities to this project and the duration of their assignments are shown on the Task Authorization.

2. Construction Phase Costs - Prior to commencement of each Construction Phase, the Owner will direct the Construction Manager in writing to proceed into said Construction Phase. The Construction Phase Cost for work or services performed during the Construction Phase shall be an amount of *(To Be Determined at GMP)*. The Construction Phase Costs shall be paid according to the percent complete of the Project. The first monthly payment shall be due thirty (30) days following the issuance of the first Construction Authorization by the Owner's Representative and the final monthly payment shall be paid only when construction of the Project, or portion thereof, is finally completed and occupancy of the Project, or portion thereof, accepted by the Owner. If construction is authorized only for a part of the Project, the costs paid shall be proportionate to the amount of work authorized by the Owner.
 - A. Adjustments in Costs - For changes in the Project as provided in Article 10, the Construction Phase Costs shall be adjusted as follows:
 1. The Construction Manager shall be paid an additional amount subject to negotiation if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss excluding any condition that may have been caused from negligent acts by the Construction Manager.
 2. Should the construction duration for any phase extend longer than stipulated above, there shall be no additional Construction Phase Costs paid to the Construction Manager unless such delays are as defined in Article 10.2.
 3. The Construction Manager will not be due any additional Construction Phase Fee on increases in the Guaranteed Maximum Price (GMP) that do not exceed a cumulative total of two percent (2%) for each separate GMP. Should a GMP be increased by more than a cumulative total of two percent (2%) under the terms of Article 10 hereinafter, due to no fault of the Construction Manager, the Construction Manager's additional Construction Phase Fee will be based on the Original GMP as set forth in the below chart for that portion of the accumulative increases in the GMP that exceed the GMP by more than two percent (2%).

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GMP	Construction Manager's Fee
\$0.00 to \$150,000	10%
\$150,001 to \$500,000	8%
\$500,001 to \$750,000	7.5%
\$750,001 to \$1,000,000	7%
\$1,000,001 to \$1,500,000	6%
\$1,500,001 to \$2,000,000	5%

Construction Manager's Exclusive Remedy - In the event the construction Substantial or Final Completion date is extended, regardless of whether delay is caused by any act or neglect of the Owner or the Architect-Engineer, or is attributable to the Owner or the Architect-Engineer, the Construction Manager's sole and exclusive remedy is an extension of the Substantial Completion Date and payment of additional Construction Phase Costs and Construction Phase Fee as provided above.

B. Costs and Expenses Included in Construction Phase Costs – The following are included in the Construction Phase Costs for services during the Construction Phase:

1. Salaries or other compensation of the Construction Manager's employees at its principal office and branch offices.
 2. General operating expenses of the Construction Manager's principal and branch offices related to the Project.
 3. The costs of all data processing staff.
 4. Salaries or other compensation of the Construction Manager's employees at the job site.
 5. General operating expenses incurred in the management and supervision of the Project, except as expressly included in Article 9.
 6. Those services set forth in Article 2.4(9)(A).
 7. Job office supplies including but not limited to paper, pencils, paper clips, file folders, staples and janitorial supplies.
3. Construction Phase Fee - For overhead, profit and general expenses of any kind, except as may be expressly included in Article 9, for services provided during and related to the construction phase, the amount shall be based on the Original GMP as set forth in the chart below and shall be converted to a fixed amount upon acceptance of the GMP, subject to changes as described herein, and shall be paid

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proportionally to the ratio of the cost of the work in place, including stored materials, as it bears on the latest estimate of the total construction cost and/or to the GMP, whichever is less. The balance of the fee shall be paid when construction of the Project, or portion thereof, is finally completed and occupancy of the Project, or portion thereof, is accepted by the Owner. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the Owner. The Construction Manager's exclusive remedy for any adjustments in the Construction Phase Fee is provided in Article 8.1(2).

GMP	Construction Manager's Fee
\$0.00 to \$150,000	10%
\$150,001 to \$500,000	8%
\$500,001 to \$750,000	7.5%
\$750,001 to \$1,000,000	7%
\$1,000,001 to \$1,500,000	6%
\$1,500,001 to \$2,000,000	5%

ARTICLE 9 DIRECT COSTS OF THE PROJECT

9.1 Definition:

The term Direct Cost of the Project shall mean costs necessarily incurred in the Project during the Construction Phase for Construction Services and paid by the Construction Manager, which are not included in the Construction Phase Fee. Such costs shall include the items set forth below in this Article.

The Owner agrees to pay the Construction Manager for the Direct Costs of the Project as defined herein. Such payment shall be in addition to the Construction Phase Costs stipulated in Article 8. Invoices submitted under this Article 9 shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

9.2 Direct Cost Items:

1. Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof.
2. Payments due to subcontractors from the Construction Manager or made by the Construction Manager to subcontractors for work performed pursuant to contract under this Agreement.
3. Cost including transportation and maintenance of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workmen, employed or consumed in the performance of the work.

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4. Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Construction Manager or other, including installation, repairs and replacement, dismantling, removal, transportation and delivery costs thereof, which are used in the support of a subcontractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area.
5. Cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction of the Project. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. There shall be no Construction Phase Fee on this item.
6. Losses and expenses sustained by the Construction Manager in connection with the work, not compensated by insurance, including deductibles provided they have resulted from causes other than the negligent misconduct of Construction Manager.
7. Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable.
8. The cost of corrective work, subject to the GMP, except for any corrective work made necessary because of defective workmanship or other problems caused by the negligence of the Construction Manager or its subcontractors or suppliers. No costs shall be paid by the Owner to the Construction Manager for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the Contract Documents or to correct any deficiency or damage caused by the negligent acts by the Construction Manager.
9. Costs for repairs and maintenance, which are consistent with industry standards associated with work required during the warranty period, which may be the responsibility of Construction Manager. This shall not apply to work, which is the responsibility of subcontractors, except in the case of a subcontractor's default.
10. Costs for trash and debris control and removal from the site.
11. Costs incurred due to an emergency affecting the safety of persons and property.
12. Legal costs reasonably and properly resulting from the Project on behalf of the Owner, including handling claims for changes by Subcontractors and Vendors, subject to the following limitations:
 - A. The Owner approved incurring such costs in advance, which approval shall not be unreasonably denied; and

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- B. The legal costs were not incurred as result of the Construction Manager's own negligence or default.

This paragraph does not provide for payment of legal costs incurred in preparing or asserting claim or requests, by Construction Manager itself, for change orders or in enforcing the obligations of this contract.

13. All costs directly incurred in the performance of the Project for the benefit of the Project and not included in the Construction Phase Costs as set forth in Article 8.
14. If requested by the Owner, the Construction Manager will perform all or a portion of the General Conditions work as a Direct Cost of the Project.
15. If approved by the Owner, the Construction Manager, when qualified, may perform all or a portion of the work for any item listed on the estimate or GMP breakdown where it is deemed advantageous due to schedule or economic benefit as a Direct Cost of the Project.
16. Transportation outside of Lake, Orange or Seminole for those personnel employed directly for the Project, not including relocation expenses. Such transportation must be approved in advance by the Owner, and will be in accordance with the Construction Manager's standard personnel policy.
17. Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the Project.
18. Costs for watchman and security services for the Project.
19. Costs for efficient logistical control of the site, including horizontal and vertical transportation of materials and personnel and costs for adequate storage and parking.
20. Costs for such temporary facilities and temporary protection during construction, as approved by the Owner, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software.
21. Costs for any job site items not referenced herein, not normally provided by the subcontractors, which will be provided by the Construction Manager as required to complete the Project.

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ARTICLE 10 CHANGES IN THE PROJECT

10.1 Change Orders:

The Owner, without invalidating this Agreement, may order changes in the Project within the general scope of this Agreement consisting of additions, deletions or other revisions, with the GMP and the Substantial and/or Final Completion Dates being adjusted accordingly. All changes in the Project, not covered by an authorized contingency, shall be authorized by a Change Order signed by the Owner before the change is implemented.

1. A Change Order is a written order to the Construction Manager signed by the Owner issued after the execution of this Agreement, authorizing a change in the Project, the Construction Phase Fee, or other attributable cost of the Project.
2. The increase or decrease in the GMP resulting from a change in the Project shall be determined in one or more of the following ways:
 - A. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect-Engineer and Owner;
 - B. by unit prices stated in the Agreement or subsequently agreed upon;
 - C. by cost as defined in Article 9 and a mutually acceptable fixed or percentage fee; or
 - D. by the method provided in Article 10.1(3).
 - E. Should any costs be required for design of an alternative system that would be advantageous to the Project and result in a deductive change order, the Construction Manager shall include the cost of the redesign services of the Architect-Engineer so that the Owner can make proper assessment of the cost of such change. Payment for additional services shall be made by the Owner.
3. If none of the methods set forth in Article 10.1(2) is agreed upon, the Construction Manager, provided it receives a written order signed by the Owner, shall promptly proceed with the work involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. In the event a Change Order is issued under these conditions, the Construction Manager shall establish an estimated cost of the work and the Construction Manager shall not perform any work if the cost exceeds that estimate without prior written approval by the Owner.

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4. In the event of either Article 10.1(2) or Article 10.1(3) above, the Construction Manager shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data, of the increase in the Direct Cost of the Project as outlined in Article 9.
5. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Construction Manager to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease.
6. If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, and that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to the Owner or the Construction Manager, the applicable unit prices and Guaranteed Maximum Price shall be equitably adjusted.
7. In the performance of the work, should concealed conditions be encountered below the surface of the ground or should concealed or unknown conditions in an existing structure be inconsistent with the conditions indicated by the Drawings, Specifications, or Owner furnished information or should unknown physical conditions exist below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Guaranteed Maximum Price and the Substantial and/or Final Completion Dates shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Article 10.2.
8. In the event the Construction Manager encounters material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, petroleum waste, biohazardous substances, radioactive waste or any other substance falling within the category of hazardous or toxic waste under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or any other state or federal environmental statute or regulation, hereinafter collectively referred to as "hazardous waste," the Construction Manager shall immediately stop work in the area affected and report the condition to the Owner in writing. Owner shall thereafter as soon as reasonably possible conduct a thorough investigation to determine if the suspected material in the affected area is in fact hazardous waste and shall certify to Construction Manager that such material is not hazardous waste or if such material is in fact hazardous waste that such hazardous waste has been abated and that it is safe to return to the affected area and resume work. The Construction Manager may require the Owner to furnish copies of reports of tests conducted by a qualified testing laboratory acceptable to Construction Manager verifying the absence of such hazardous waste before Construction Manager will be required to resume work. The Contract time and amount shall thereafter be equitably adjusted to account for the time lost due to the encountering of the hazardous waste and the reasonable cost associated therewith.

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The Construction Manager shall, through an analysis of network schedule, prove such time delays and associated costs.

9. The Construction Manager shall not be required to perform any work relating to hazardous waste without consent pursuant to this Article 10.

10.2 Claims for Additional Cost or Time:

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

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

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

10.3 Minor Changes in the Project:

The Owner will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Substantial and/or Final Completion Date and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order. The Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the Project Management Information System. Changes shall be approved by the Owner and Architect-Engineer.

10.4 Emergencies:

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

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ARTICLE 11 DISCOUNTS

All discounts for prompt payment shall accrue to the Owner to the extent the cost of the item(s) purchased is paid directly by the Owner or from a fund made available by the Owner to the Construction Manager for such payments. To the extent the cost associated with the Project is paid with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment, shall be credited to the cost of the Project.

ARTICLE 12 PAYMENTS TO THE CONSTRUCTION MANAGER

12.1 Monthly Statements:

The Construction Manager shall submit to the Owner a sworn statement, along with the cost reports required under Article 2.1(5), showing, in detail, all moneys paid out, cost accumulated or costs incurred during the previous period and the amount of the Construction Phase Fees due as provided in Article 8. This data shall be attached to the Partial Pay Request form shown in **Exhibit E**". Ten percent (10%) retainage shall be held on all payments until the contract is fifty percent (50%) complete, except when approved by the Owner certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. At fifty percent (50%) completion, the Owner may approve a reduction of the retainage from ten percent (10%) to five (5%) at its discretion. Retainage shall not be withheld on services or fees set forth in Article 8. Payments by the Owner to the Construction Manager shall be made as described in this Article 12. As a condition to application for a monthly partial pay requisition, the Construction Manager agrees that all as-built information will be recorded within thirty (30) days after receipt of information that a change to the Construction Documents has occurred.

12.2 Final Payment:

Final payment constituting the unpaid balance of the Construction Phase Cost of the Project and the Construction Phase Fee, shall be due and payable as described in Article 12.4 after Final Completion, provided that the Project has been finally completed, that the Construction Manager has verified by appropriate signature that it has completed all items and that this Agreement has been finally performed. However, if there should remain work to be completed, the Construction Manager, the Owner, and the Architect-Engineer shall list those items prior to receiving final payment and the Owner may retain a sum equal to the estimated cost of completing any unfinished work and portion of the Construction Manager's retainage, provided that said unfinished items are listed separately and the estimated cost of completing the unfinished items are likewise listed separately. Thereafter, Owner shall pay the Construction Manager monthly, the amount retained for each incomplete item after each such item is completed.

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12.3 Payments to Subcontractors:

The Construction Manager shall promptly, within ten (10) days after receipt of payment from the Owner, pay all the amounts due to subcontractors less a retainage of ten percent (10%) until the project is fifty percent (50%) complete, and based on Construction Manager's evaluation of the subcontractor's acceptable performance, the Owner may approve a reduction in retainage from ten percent (10%) to five percent (5%) thereafter. If there should remain items to be completed, the Construction Manager, the Owner and Architect-Engineer shall list those items required for completion and the Construction Manager shall require the retainage of a sum equal to five percent (5%) of the estimated cost of completing any unfinished items, provided that said unfinished items are listed separately and the estimated cost of completing any unfinished items are likewise listed separately. Thereafter, the Construction Manager shall pay to the subcontractors monthly, the amount retained for each incomplete item after each such item is completed. Before issuance of final payment without any retainage, the subcontractor shall submit satisfactory evidence that all payrolls, material bills and other indebtedness connected with the Project have been paid or otherwise satisfied, warranty information is complete, as-built markups have been submitted and instruction for the Owner's operating and maintenance personnel is complete.

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

12.4 Construction Manager's Payment Rights:

All payments for construction services shall be governed by and made in accordance with Florida's Prompt Payment Act, Florida Statutes, Section 218.735.

12.5 Payments for Materials and Equipment:

Payments will be made for material and equipment not incorporated in the work but delivered and suitably stored at a Project site or another location that is insured to protect the Owner's assets subject to prior approval and acceptance by the Owner on each occasion.

12.6 Withholding Payments to Subcontractors:

The Construction Manager shall not withhold payments to subcontractors if such payments have been made to the Construction Manager. Should this occur, the Construction Manager shall return such moneys to the Owner, adjusting pay requests and project bookkeeping as required. However, this provision shall not apply should payments to subcontractors be withheld as a result of procuring normal process paperwork in accordance with the Construction Manager's contract with said subcontractor. The Construction Manager shall, if requested by the Owner, notify the Owner in writing as to the reason for withholding payment.

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ARTICLE 13 INSURANCE, INDEMNITY AND WAIVER OF SUBROGATION

13.1 Indemnity:

The Construction Manager agrees to be liable for any and all damages, losses and expenses incurred, by the Owner, in any way related to or caused by the acts and/or omissions of the Construction Manager, or any of its employees, agents, sub-contractors, representatives, volunteers or the like, to the extent stemming from the services provided by this Agreement. The Construction Manager agrees to indemnify, defend and hold the Owner harmless for any and all claims, suits, judgments, damages, losses and expenses, including but not limited to, court costs, expert witness fees, consultation services and attorney's fees, through and including any appeals, arising from and related to any and all acts and/or omissions of the Construction Manager, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like, to the extent stemming from the services provided by this Agreement. Said indemnification, defense and hold harmless activities shall not be limited by any required insurance coverage amounts set forth herein and shall survive termination or natural expiration of this Agreement.

13.2 Construction Manager's Insurance:

1. The Construction Manager shall not commence any construction work in connection with this Agreement until he has obtained all of the following types of insurance and such insurance has been approved by the Owner, nor shall the Construction Manager allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be from insurers qualified and doing business in Florida with an AM Best Company rating of no less than A.
2. Worker's Compensation Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees, and the like, connected with the work of this Project and, in case any work is sublet, the Construction Manager shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the subcontractor's employees unless such employees are covered by the protection afforded by the Construction Manager. Such insurance shall comply with Florida Worker's Compensation Law. In case any class of employees, engaged in hazardous work on the Project, is not protected under the Worker's Compensation statute, the Construction Manager shall provide adequate insurance, satisfactory to the Owner, for the protection of employees not otherwise protected. Employers' liability shall be no less than \$1,000,000/1,000,000/1,000,000.
3. Construction Manager's Public Liability and Property Damage Insurance - The Construction Manager shall take out and maintain during the life of this Agreement, Comprehensive General Liability and Comprehensive Automobile Liability Insurance to protect it from claims of damage for personal injury, including

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accidental death, as well as claims for property damage which may arise from its operations under this Agreement whether such operations are by the Construction Manager or by anyone directly or indirectly employed by it, and the amount of such insurance shall have the following minimum limits:

- A. GENERAL LIABILITY: One Million Dollars (\$1,000,000.00) each occurrence; GENERAL AGGREGATE: Two Million Dollars (\$2,000,000.00). There shall not be an EFIS Exclusion Endorsement on any general liability policy;
 - B. Automobile Liability Coverages, One Million Dollars (\$1,000,000.00) combined single limit, and One Million Dollars (\$1,000,000.00) for each occurrence of bodily injury and property damage;
 - C. Excess Liability, Umbrella Coverage, Two Million Dollars (\$2,000,000.00) each occurrence.
- 4. Subcontractor's Public Liability and Property Damage Insurance - The Construction Manager shall require each of its subcontractors to procure and maintain during the life of any such subcontract, insurance coverage of the types specified above or insure the activities of the subcontractors in the Construction Manager's policies, as specified above.
 - 5. "XCU" (Explosion, Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
 - 6. Products and completed operations Coverages - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages. The products and completed operations portions of the liability coverage shall extend for a period of two (2) years after the Final Acceptance of the Project by the Owner.
 - 7. Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.
 - 8. Indemnification Rider -
 - A. To cover to the fullest extent permitted by law, the Construction Manager shall indemnify and hold harmless the Owner and the Architect-Engineer and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Project, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease

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or death, or to injury to or destruction of tangible property (other than the work itself), and to the extent it (2) is caused in whole or in part by any negligent act or omission of the Construction Manager, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right to obligation of indemnity which would otherwise exist as to any party or person described in this Article.

- B. In any and all claims against the Owner or the Architect-Engineer or any of their agents or employees by any employee of the Construction Manager, any subcontractor, anyone directly or indirectly employed by either or anyone for whose acts either may be liable, the indemnification obligations under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Construction Manager or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
 - C. The obligations of the Construction Manager under this Article 13.2(8) shall not extend to the liability of Architect-Engineer, his agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instruction by Architect-Engineer, its agents or employees provided such giving or failure to give is the primary cause of the injury or damage.
 - D. The Construction Manager hereby acknowledges receipt of Ten Dollars (\$10.00) and other good and valuable consideration from the Owner and acknowledges receipt of Ten Dollars (\$10.00) and other good and valuable consideration from the Architect-Engineer in exchange for giving the Owner and Architect-Engineer, respectively, the indemnification provided above in Articles 13.1 and 13.2.
9. Builder's Risk Coverage - The Construction Manager shall take out and maintain a "Builder's Risk Policy" for each assigned Project, issued to provide coverages on an "all risk" basis including theft. This coverage shall not lapse or be canceled because of partial occupancy by the Owner prior to Final Acceptance of the Project. The Owner may elect to take out and maintain this insurance coverage. Should the Owner purchase said insurance, the insurance policy shall have a deductible for each occurrence of Five Thousand and 00/100 Dollars (\$5,000.00). The Construction Manager shall be responsible for paying any deductible amount.
10. Certificate of Insurance - For every insurance policy required hereunder, the Construction Manager shall provide the Owner with a Certificate of Insurance

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evidencing such coverage for the duration of this Agreement, or such longer period if required hereunder. Said Certificate of Insurance shall be dated and show:

- A. The name of the insured Construction Manager;
 - B. The specified job by name and job number;
 - C. List the "CITY OF MOUNT DORA" as an Additional Insured;
 - D. Recognizes the Indemnification requirements of this Agreement;
 - E. The name of the insurer;
 - F. The number of the policy;
 - G. The effective date;
 - H. The termination date;
 - I. A statement that the insurer will mail notice to the CITY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.
11. Receipt of certificates or other documentation of insurance or policies or copies of policies by the Owner, or by any of its representatives, which indicates less coverage than is required hereunder, does not constitute a waiver of the Construction Manager's obligation to fulfill the insurance requirements specified herein.
 12. The Construction Manager shall ensure that any sub-contractor(s), hired to perform any of the work on any part of the Project, maintain appropriate insurance as determined by the Construction Manager. In addition, the Construction Manager shall maintain proof of same on file and made readily available upon request by the Owner.
- 13.3 Waiver of Subrogation:
1. The Owner and the Construction Manager waive all rights against each other, for damages caused by perils covered by insurance provided under Article 13.2 to the extent they are covered by such insurance except such rights as either may have to the proceeds of such insurance held by the Owner and Construction Manager as trustees. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
 2. The Owner and Construction Manager waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
 3. The Owner waives subrogation against the Construction Manager on all property and consequential loss policies carried by the Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.

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

ARTICLE 14 **TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO** **PERFORM CONSTRUCTION MANAGER'S OBLIGATION**

14.1 Termination by the Construction Manager:

If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of sixty (60) days by the Construction Manager, for the Owner's failure to make payments thereon, then the Construction Manager may, upon seven (7) days written notice to the Owner, request payment for all work executed, the Construction Manager's fees earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit thereon and termination expenses incurred by the Construction Manager.

14.2 Owner's Right to Perform Construction Manager's Obligations and Termination by Owner for Cause:

1. If the Construction Manager fails to perform any of its obligations under this Agreement, including any obligation it assumes to perform work with its own forces, the Owner may correct any deficiencies after providing seven (7) days written notice to the Construction Manager. In such an event, the GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the Owner of correcting such deficiencies and the Construction Manager's Construction Phase Fee shall also be reduced by the amount required to manage the correction of such deficiencies.
2. The Owner may, without prejudice to any other right or remedy and upon providing the Construction Manager and its surety, if any, seven (7) days written notice of failures or deficiencies, terminate this Agreement with the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the Project by whatever means or method the Owner, in its sole discretion, deems appropriate.
3. If the Construction Manager is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Construction Manager's insolvency, or if it persistently or repeatedly refuses or fails, except in cases for which an extension of time is provided, to supply enough

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properly skilled workmen or proper materials and fails to maintain an established schedule by falling forty-five (45) days or more behind the schedule adopted by the Construction Team, or if the Construction Manager fails to make prompt payments to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations or orders of any public authority having jurisdiction, or otherwise is in breach of a material provision of this Agreement, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall it be relieved from its obligations assumed under Article 6. Reasonable termination expenses incurred by the Owner may be deducted from any payments which remain owed to the Construction Manager, excluding any monies owed the Construction Manager for subcontract work.

14.3 Termination by Owner Without Cause:

1. The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient without prejudice to any right or remedy.
2. Upon seven (7) days written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:
 - A. cease operations as directed by the Owner in the notice;
 - B. take actions necessary, or that the Owner may direct, for the protection and preservation of the work; and
 - C. terminate all existing subcontracts and purchase orders and not enter into further subcontracts and purchase orders, except for work directed to be performed prior to the effective date of termination stated in the notice.
3. In case of such termination for the Owner's convenience, the Construction Manager shall be entitled to receive payment for work executed, and costs incurred by reason of such termination, along with a reasonable fee, as defined in Article 8.1(2), overhead and profit on the work performed.

ARTICLE 15

ASSIGNMENT AND GOVERNING LAW

- 15.1 Neither the Owner nor the Construction Manager shall assign its interest in this Agreement without the written consent of the other except as to the assignment of proceeds.
- 15.2 This Agreement shall be governed by the laws of the State of Florida. Venue shall be in Lake County, Florida. The parties waive all rights to trial by jury.

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ARTICLE 16 NOTICE OF CLAIM; WAIVER OF REMEDIES

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

1. All claims must be submitted as a Request for Change Order in the manner as provided herein;
2. The Construction Manager must submit a Notice of Claim to Owner within twenty (20) days of the Construction Manager becoming aware of the occurrence, or the event, giving rise to the claim; and
3. Within ten (10) days of submitting its Notice of Claim, the Construction Manager shall submit to the Owner its Request for Change Order, which shall include a written statement of all the details of the claim, including a description of the work affected.

The Construction Manager agrees that the Owner shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this paragraph to the extent that the Owner is prejudiced by the failure of the Construction Manager to submit the Request for Change Order.

16.2 After receipt of a Request for Change Order, the Owner, in consultation with the Architect-Engineer, shall deliver to the Construction Manager its written determination of the claim.

16.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 8, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the Owner or the Architect-Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 16.1 above, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Manager's claims for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus the Construction Manager's Fee established at each Project's Original GMP. The Construction Manager expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in work, and eliminates any other remedies for claims for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

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ARTICLE 17 DIRECT MATERIALS ACQUISITION AND SALES TAX EXEMPT PURCHASE PROCEDURES FOR PUBLIC PROJECTS

17.1 Direct Materials Acquisition by Owner - Supply Bonds:

1. The Construction Manager shall ensure that each subcontractor includes Florida state tax and other applicable sales tax for all material, supplies and equipment included in a subcontractor's bid.
2. The Owner may, if not prohibited by law, exercise a right to purchase directly, various construction materials, supplies and equipment that may be part of this Agreement or of a subcontract, provided that the Owner receives proper authorization from the State of Florida in the form of a Technical Assistance Advisement as set forth in Florida Administrative Code, Rule 12-11.003. Any materials purchased by the Owner shall be referred to as "Owner Purchased Materials" and the responsibilities of both the Owner and the Construction Manager relating to such Owner Purchased Materials shall be governed by the terms and conditions of this Article, which shall take precedence over other conditions and terms of this Agreement where inconsistencies or conflicts exist.
3. The Owner will issue its own purchase orders directly to a vendor. The Owner's Purchase Order shall contain or be accompanied by the Owner's exemption certificate and must include the Owner's name, address and exemption number with issue and expiration date shown. The materials shall be purchased from the vendors and suppliers selected by the Construction Manager or subcontractor for prices negotiated by the Construction Manager or subcontractor, as applicable. The Construction Manager will provide all the necessary information for preparation of the purchase orders by the Owner and will coordinate the purchase of the materials in a timely manner so as to not negatively impact the performance of the construction activity of the Project.
4. The subcontract amount shall be reduced by the net, undiscounted amount of these purchase orders, plus all sales taxes. Issuance of the purchase orders by the Owner shall not relieve the subcontractor or the Construction Manager of any of their responsibilities regarding material purchases, or installation, with the exception of the payments for the material so purchased. The Construction Manager and the subcontractor shall remain, with respect to materials, supplies and equipment, fully responsible for coordination, correct quantities ordered, submittals, protection, storage, scheduling, shipping, security, expediting, receiving, installation, cleaning and the management of all applicable warranties.
5. As Owner Purchased Materials are delivered to the jobsite, the Construction Manager, as Owner's representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of Owner Purchased Material

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is accompanied by documentation adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the Owner or Construction Manager may require. The Construction Manager, as Owner's representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The vendor will then forward the invoice to the Owner through the Construction Manager for payment. The invoice shall be thereupon furnished to the Owner for processing and payment in the same manner that all other Owner invoices are processed. The Owner shall have the right to assign Owner personnel to verify and audit the accuracy of all Direct Purchase documents.

6. Notwithstanding the transfer of Owner Purchased Materials by the Owner to the Construction Manager's possession, the Owner shall retain title to any and all Owner Purchased Materials.
7. The Owner shall purchase and maintain insurance which shall be sufficient to protect against any loss of or damage to Owner purchased equipment, materials or supplies. Such insurance shall cover the value of any Owner Purchased Materials not yet incorporated into the Project from the time the Owner first takes title.
8. The material supplier may be required to provide a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the Owner and the Construction Manager. If a supply bond is required, the cost of the bond will be added to the amount of the Purchase Order. The premium cost for this supply bond shall be included in the bid price. Verifying that a designated material supplier can furnish a supply bond, if required, will be the responsibility of the Construction Manager. Owner reserves the right to waive the requirement of providing a supply bond at the discretion of Owner.
9. If the State of Florida assesses any sales tax penalties and/or interest against the Construction Manager or any of its subcontractors or material suppliers relating to the direct acquisition of materials and/or equipment by Owner as authorized by this paragraph, such taxes, penalties, interest and/or any legal and administrative fees expended by the Construction Manager as a direct result of any action or assessment made by the State of Florida, shall be reimbursed by Owner to the Construction Manager in a prompt and reasonable manner and shall not be considered a Project Cost.

18.2 Sales Tax Exempt Purchasing Procedures for Public Projects:

1. The Construction Manager has included Florida sales tax and other applicable taxes in its bid for material, supplies and equipment. The Owner, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in any subcontractor's bid and/or contract.

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2. Any equipment, materials or supplies directly purchased by the Owner that are included in the Construction Manager's contract or any subcontract shall be referred to as Owner Purchased Materials and the responsibilities of both the Owner and the subcontractor relating to such Owner Purchased Materials shall be governed by these procedures.
3. Material suppliers shall be selected by the Construction Manager or subcontractor, as applicable.
4. Owner purchasing of construction materials, if selected, will be administered on a deductive Change Order basis and the contract amount shall be reduced by the net undiscounted amount of the purchase orders issued by the Owner, plus all sales tax included.
5. The Construction Manager shall provide a list of all intended suppliers, vendors and materialmen for consideration as Owner Purchased materials with a description of the materials to be supplied, estimated quantities and prices. This information shall be submitted to the Owner as soon as practicable.
6. The Construction Manager or subcontractors, as applicable, shall prepare a purchase order requisition form in a form acceptable to the Owner and the Construction Manager, to specifically identify the materials, which Owner has, at its sole option, elected to purchase directly. The purchase order requisition form shall include:
 - A. the name, address, telephone number and contact person for the material supplier;
 - B. manufacturer or brand, model or specification number of the item;
 - C. estimated quantity needed;
 - D. the price quoted by the supplier for the materials identified therein;
 - E. any sales tax associated with such quote; and
 - F. delivery dates
7. Construction Manager or subcontractor shall include reference to any terms and conditions, which have been negotiated with the vendors, such as payment terms, warranties, retainage and the like. The purchase order requisition forms are to be submitted to the Owner's Representative no less than seven (7) days prior to the need for ordering such Owner Purchased Materials, in order to provide sufficient time for Owner review and approval and to assure that such directly purchased materials may be directly purchased by Owner and delivered to the Project site without any delay to the Project.

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8. After receipt of the purchase order requisition form, Owner shall prepare the Purchase Order for equipment, materials or supplies which the Owner chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Construction Manager or subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, the Construction Manager shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. The Owner's Purchase Orders shall be accompanied by the Owner's exemption certificate and must include the Owner's name, address, and exemption number with issue and expiration date shown.
9. In conjunction with the execution of the Purchase Orders, by the suppliers, one or more deductive Change Orders shall be issued, referencing the full value of all Owner Purchased Materials to be provided by each supplier from whom the Owner elected to purchase material directly, plus all sales tax savings associated with such materials in the Construction Manager's price or subcontractor's bid.
10. Construction Manager shall be fully responsible for all matters relating to the receipt of materials furnished by the Owner in accordance with these procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by the Owner. The Construction Manager shall coordinate delivery schedules, sequence of delivery, loading orientation and other arrangements normally required for the particular materials furnished. The Construction Manager shall provide all services required for the unloading, handling and storage of materials through installation. The Construction Manager agrees to indemnify and hold harmless the Owner from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of the Construction Manager.
11. As Owner Purchased Materials are delivered to the jobsite, the Construction Manager, as Owner's representative, shall visually inspect all shipments from the suppliers and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the purchase order, together with such additional information as the Owner or Construction Manager may require. The Construction Manager, as Owner's representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The vendor will then forward the invoice to the Owner through the Construction Manager for payment. The invoice shall be thereupon furnished to the Owner for processing and payment in the manner all

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other Owner invoices are processed. The Owner shall have the right to assign Owner personnel to verify and audit the accuracy of all Direct Purchase documents.

12. The Construction Manager shall ensure that Owner Purchased Materials conform to the Specifications, and determine prior to incorporation into the work if such materials are patently defective and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Construction Manager discovers defective or nonconformity in the Owner Purchased Material, upon such visual inspection, the Construction Manager shall not utilize such nonconforming or defective materials in the work, shall promptly take action to remedy the defect or nonconformance so as not to delay the Project and shall promptly notify the vendor of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Construction Manager shall notify the Owner of such occurrence. If the Construction Manager fails to perform such inspection and otherwise incorporates defective or nonconforming Owner Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, the Construction Manager shall be responsible for all damages to the Owner resulting from the incorporation of such materials into the Project, including liquidated or delay damages.
13. The Construction Manager shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession. The Construction Manager shall account monthly to the Owner for any Owner Purchased Materials delivered into the Construction Manager's possession, including portions of all such materials, which have been incorporated into the work.
14. The Construction Manager shall be responsible for obtaining and managing all warranties and guarantees for all materials and products. All repairs, maintenance or damage repair calls shall be handled by the Construction Manager for resolution with the appropriate supplier or vendor.
15. Notwithstanding the transfer of Owner Purchased Materials by the Owner to the Construction Manager's possession, the Owner shall retain title to any and all Owner Purchased Materials.
16. The transfer of possession of Owner Purchased Materials from the Owner to the Construction Manager shall constitute a bailment for mutual benefit of the Owner and the Construction Manager. The Owner shall be considered the bailor and the Construction Manager the bailee of the Owner Purchased Materials. Owner Purchased Materials shall be considered returned to the Owner for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the project. The Construction Manager shall have the duty to safeguard, store and protect all Owner Purchased Materials.

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17. The Owner shall purchase and maintain insurance which shall be sufficient to protect against any loss of or damage to Owner Purchased equipment, materials or supplies. Such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project from the time the Owner first takes title.
18. The Owner shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, Owner Purchased Materials.
19. On a monthly basis, the Construction Manager shall be required to review invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site during that month and either concur or object to the Owner's issuance of payment to the suppliers, based upon the Construction Manager's records of materials delivered to the site and any defects in such materials.
20. In order to arrange for the prompt payment to the supplier, the Construction Manager shall provide the Owner with a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items and such other documentation as may be reasonably required by the Owner. Upon receipt and verification of the appropriate documentation, the Owner shall prepare a check drawn to the supplier based upon the receipt of data provided. The check will be released, delivered and remitted directly to the supplier. The Construction Manager agrees to assist the Owner to immediately obtain partial or final release of lien waivers as appropriate.
21. At the end of the Project, any refund for surplus materials returned to suppliers plus applicable sales tax savings amounts shall be credited with an additive Change Order to the applicable subcontractor agreement with the Construction Manager. Salvage materials shall be the property of the Owner and stored or removed from the site by the Construction Manager at the Owner's direction.

ARTICLE 18 MISCELLANEOUS

18.1 Harmony:

1. The Construction Manager is advised and hereby agrees that it will exert every reasonable and diligent effort to assure that all labor employed by the Construction Manager and its Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project.
2. The Construction Manager further agrees that the above provision will be included in all contracts with the subcontractors; however, said provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-

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membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

18.2 Dispute Resolution:

1. All claims, disputes and other matters in question, hereinafter referred to as a "Controversy", between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be initially submitted to mediation if mutually agreeable in accordance with the Construction Mediation Rules of the American Arbitration Association ("AAA") or any other mutually agreeable mediation firm.
2. Should either the Owner or the Construction Manager feel it necessary and appropriate to take any legal action to enforce any of the terms or conditions of this Agreement, then each party shall be responsible for its own attorney's fees and costs associated with such litigation.

18.3 Construction Manager's Project Records:

The Construction Manager's Project records shall be maintained for the minimum period required by state and federal law, and shall be made available to the Owner or its authorized representative at mutually convenient times.

18.4 Consequential Damages:

The parties mutually waive all claims for consequential damages, except to the extent paid for by insurance maintained for this project.

18.5 Public Records:

1. Pursuant to Florida Statutes, Section 119.0701:

**IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF
FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE
PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE
ITY'S/OWNER'S CUSTODIAN OF PUBLIC RECORDS:**

**CITY CLERK: GWEN JOHNS
510 NORTH BAKER STREET
MOUNT DORA, FL 32757
(352) 735-7126
JOHNSG@CITYOFMOUNTDORA.COM**

2. Construction Manager agrees to comply with public records laws, specifically to:

ATTACHMENT #1

- A. Keep and maintain public records required by the City/Owner to perform the services set forth herein.
- B. Upon request from the City's/Owner's custodian of public records, provide the City/Owner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes, Chapter 119, or as otherwise provided by law.
- C. Ensure that public records which 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 City/Owner.
- D. Upon completion of the contract, transfer, at no cost to the City/Owner, all public records in possession of the Construction Manager or keep and maintain public records required by the City/Owner to perform the services set forth herein. If the Construction Manager transfers all public records to the City/Owner 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 City/Owner, upon request from the City's/Owner's custodian of public records, in a format that is compatible with the information technology systems of the City/Owner.

18.6 Severability:

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

18.7 Waiver:

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but same shall remain in full force and effect.

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18.8 Notice:

The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the Owner and the Construction Manager. All notices required and/or made pursuant to this Agreement to be given to the Owner and the Construction Manager shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

Owner: City of Mount Dora
Attention: City Manager
510 N. Baker Street
Mount Dora, Florida 32757

with copy to: City Attorney
Bell & Roper, P.A.
2707 E. Jefferson Street
Orlando, Florida 32803

Construction Manager: Evergreen Construction Management, Inc.
30941 Suneagle Drive
Mount Dora Florida 32757

18.9 Modification:

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

18.10 Headings:

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

18.11 Joint Authorship:

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

18.12 Equal Opportunity Employer:

The Construction Manager is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The Construction Manager will further ensure that

ATTACHMENT #1

all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws. During the performance of this contract, the Construction Manager agrees as follows:

1. The Construction Manager will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin. The Construction Manager will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Construction Manager agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Construction Manager will, in all solicitations or advertisements for employees placed by or on behalf of the Construction Manager, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.
3. The Construction Manager will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by the employer or is consistent with the contractor's legal duty to furnish information.
4. The Construction Manager will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Construction Manager's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Construction Manager will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

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6. The Construction Manager will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
7. In the event of the Construction Manager's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Construction Manager may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
8. The Construction Manager will include the provisions of paragraphs (1) through and including this paragraph (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Construction Manager will take such action with respect to any subcontract or purchase order as necessary.

18.13 Compliance with the Davis-Bacon Act:

1. To be determined at GMP, all transactions regarding this Agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Construction Manager shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
2. The Construction Manager is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

18.14 Compliance with the Copeland "Anti-Kickback" Act:

1. The Construction Manager shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. The Construction Manager shall ensure that any subcontracts contain the above clause and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors include these clauses in any lower

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tier subcontracts. The Construction Manager shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all such contract clauses.

3. A breach of the contract clauses above may be grounds for termination of the Agreement.

18.15 Clean Air Act:

1. The Construction Manager agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Construction Manager agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Construction Manager agrees to include these requirements in each subcontract exceeding \$150,000.00, financed in whole or in part with Federal assistance provided by FEMA.

18.16 Applicable Licensing and Compliance with all Laws:

The Construction Manager, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein. The Construction Manager, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county and municipal governments, as well as their respective departments, commissions, boards and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement, including any required processes, procedures or actions necessary to assist the Owner with reimbursement or enable the Owner to seek reimbursement from FEMA if the need arises. Notwithstanding any language herein to the contrary, in the event that any laws, ordinances, judicial decisions, orders, or regulations of the federal, state, county, or municipal governments change after execution of this Agreement, Construction Manager shall be entitled to an equitable adjustment in time as applicable and price to the extent the Construction Manager's direct costs, not including labor, are affected. Any such adjustment will be determined at the time of such an occurrence and there shall only be a construction phase fee on this item if it exceeds two percent (2%) for each separate GMP.

18.17 Use of City Logo, Name, Seal, Flag and/or City Letterhead:

The Construction Manager may only use the City of Mount Dora's name, logo seal and/or flag with the express written permission of the City and consistent with any City policy related to use of the same. In addition, the Construction Manager shall not use the City's

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Letterhead for issuing any correspondence, for any purpose, without the express written consent of the Owner.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the 7 day of April, 2020.

CITY OF MOUNT DORA

**COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF MOUNT DORA**

**NORTHEAST COMMUNITY
REDEVELOPMENT AGENCY OF THE CITY
OF MOUNT DORA**

CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

For the use and reliance of the City of Mount Dora, the CRA of the City of Mount Dora and the Northeast CRA of the City of Mount Dora only. Approved as to form and legal sufficiency.

o f
OWEN KEOUGH-JOHNS, MMC
CITY CLERK

Sherry G. Sutphen
City Attorney

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EVERGREEN CONSTRUCTION
MANAGEMENT, INC.

By: _____

Print: Mark Starcher

Title: President

STATE OF FLORIDA
COUNTY OF Lake

The foregoing instrument was acknowledged before me by means of ☒ physical presence or [] online notarization of Mark Starcher, the President of Evergreen Construction Management, Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Construction Manager, who is personally known to me or who produced _____ as identification, and who did/did not take an oath this 6th day of April, 2020.

(stamp)

Lita Conyers
NOTARY PUBLIC, State of Florida



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EXHIBIT "A"

CITY OF MOUNT DORA/CRA/Northeast CRA TASK AUTHORIZATION

In accordance with the terms and conditions of the Agreement between _____ (Construction Manager) and the City of Mount Dora/CRA/Northeast CRA, dated _____, the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors attached hereto.

City Project Manager:

Construction Manager Contact:

Project Name:

Project Number:

NOTE: THE CONTRACTOR MAY NOT BEGIN WORK UNTIL THIS FULLY SIGNED TASK AUTHORIZATION IS DELIVERD TO THE CONTSTRUCTION MANAGER.

SUMMARY OF WORK TO BE COMPLETED	
<u>Each Task Authorization package shall include:</u> Exhibit A – Scope of Work Exhibit B – Price/GMP Breakdown Exhibit C – Basic Schedule Exhibit D – Construction Team Exhibit E – Construction Manager's Staff Exhibit F – Sub-Contractors	
Recommended By: Print: _____ Date: _____ Signature: _____	
Reviewed By (if applicable): Print: _____ Date: _____ Signature: _____	
CONTRACTOR ACCEPTANCE	CITY APPROVAL
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Signature: _____	Signature: _____
Date: _____	Date: _____

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EXHIBIT "B" CITY OF MOUNT DORA/CRA/Northeast CRA AMENDMENT TO TASK AUTHORIZATION

In accordance with the terms and conditions of the Agreement between _____ (Construction Manager) and the City of Mount Dora, dated _____, and the Task Authorization dated _____ (Original Task Authorization), the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors set forth herein. To the extent of any conflict between this Amendment and the Original Task Authorization, this Amendment shall prevail.

Amendment Number:

City Project Manager:

Construction Manager Contact:

Project Name:

Project Number:

NOTE: THE CONTRACTOR MAY NOT BEGIN WORK UNTIL THIS FULLY SIGNED AMENDMENT TO TASK AUTHORIZATION IS DELIVERD TO THE CONTSTRUCTION MANAGER.

SUMMARY OF WORK TO BE COMPLETED	
<u>Each Task Authorization package shall include:</u> Exhibit A – Scope of Work Exhibit B – Price/GMP Breakdown Exhibit C – Basic Schedule Exhibit D – Construction Team Exhibit E – Construction Manager's Staff Exhibit F – Sub-Contractors	
Recommended By: Print: _____ Date: _____ Signature: _____	
Reviewed By (if applicable): Print: _____ Date: _____ Signature: _____	
CONTRACTOR ACCEPTANCE	CITY APPROVAL
Print Name:	Print Name:
Title:	Title:
Signature:	Signature:
Date:	Date:

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EXHIBIT "C" CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT NAME:
PROJECT ADDRESS:
PROJECT NUMBER:
CONTRACT DATE:
CONSTRUCTION MANAGER:

TO OWNER:
Name
Address

TO CONSTRUCTION MANAGER:
Name
Address

Copy to:
____ Architect
____ Engineer
____ Field
____ Other

Project or portion of Project Designated for Partial Occupancy or Use:

The work performed on the Project under the Agreement has been reviewed and found, the Architect's best knowledge, information and belief to be substantially complete. Substantial Completion is the stage in the progress of the work when the work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the work for its intended use. The date of substantial completion of the Project or portion designated above is the date of issuance established by this Certificate of Substantial Completion, which is also the date of commencement of applicable warranties required by the Contract Documents as stated below:

Architect

By: _____

Date of Substantial Completion: _____

Print: _____

(Warranty Date of Commencement)

A Punch List of items to be completed or corrected is attached hereto. The failure to include any items on such Punch List does not alter the responsibility of the Construction Manager to complete all work in accordance with the Contract Documents. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment.

Cost Estimate of Work that is incomplete or defective: _____

The Construction Manager will complete or correct the work on the Punch List within ____ days from the above date of Substantial Completion.

Construction Manager

By: _____

Date: _____

Print: _____

The Owner hereby accepts the work or designated portions as substantially complete and will assume full possession at _____ am/pm on _____, 20__

Owner

By: _____

Date: _____

Print: _____

The responsibilities of the Owner and Construction Manager for security, maintenance, utilities, damage and insurance are as follows:

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EXHIBIT "D" CERTIFICATE OF FINAL COMPLETION

PROJECT NAME:
PROJECT ADDRESS:
PROJECT NUMBER:
CONTRACT DATE:
CONSTRUCTION MANAGER:
SUBSTANTIAL COMPLETION DATE:
FINAL PUNCHLIST INSPECTION DATE:

The Construction Manager hereby certifies that the work and all other requirements have been completed in accordance with the Contract Documents, including, but not limited to:

- ☐ completion of all discrepancies (Punchlist Items) noted at the time of Substantial Completion
- ☐ submission of "as-built" plans and specifications, shop drawings, and other record documents
- ☐ completion of all Owner training – submission of all contractually required stock and spare parts
- ☐ submission of all final Operation & Maintenance documents and other closeout deliverables
- ☐ submission of consent of Builder's surety
- ☐ submission and approval of all remaining change order proposals, claims, and applications for payment
- ☐ payment of all costs incurred for equipment, material, labor and services against the Project

The Construction Manager further certifies that:

- ☐ no liens have been attached against the Project
- ☐ no suits are pending by reason of work on the Project under the Contract for Construction
- ☐ all Workers' compensation claims are covered by Workers' Compensation Insurance as required by law
- ☐ all insurance required of the Construction Manager beyond final payment, if any, is in effect and will not be cancelled or allowed to be expired without notice to the Owner
- ☐ all public liability claims are adequately covered by insurance and that the Construction Manager shall save, protect, defend, indemnify and hold the Owner harmless from and against any and all claims which arise as a direct or indirect result of any transaction, event, occurrence, or omission related to performance of the work on the Project contemplated under said Contract for Construction.

Upon execution below, this Project will be considered complete. This consideration does not relieve the Construction Manager from its post-construction responsibilities, including correction of discrepancies noted during the first year after Substantial Completion, warranty issues, latent defects, and other requirements of the Contract or under Florida law.

Construction Manager

By: _____

Date: _____

Print: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 201_, by _____, as _____ of Evergreen Construction Group of Florida, LLC, who is authorized to bind Evergreen Construction Group of Florida, LLC, and who is personally known to me OR has produced _____ as identification.

(stamp)

NOTARY PUBLIC, State of Florida

Recommend By:
Architect

By: _____

Date: _____

Print: _____

Accepted By:
Owner

By: _____

Date: _____

Print: _____

ATTACHMENT #1

EXHIBIT “E”

Partial Pay Request Form

APPLICATION AND CERTIFICATE FOR PAYMENT

PAGE 1

TO OWNER:

PROJECT:

APPLICATION NO: 001
PERIOD TO: 03/25/2020
PROJECT NOS.: 1810008

Distribution to:
☐ OWNER
☐ ARCHITECT
☐ CONTRACTOR
☐ FIELD
☐ OTHER

FROM CONTRACTOR:

VIA ARCHITECT:

CONTRACT DATE: 01/23/2020

Evergreen Construction
30941 Suneagle Drive
Mt Dora, FL 32757

CUSTOMER CONTRACT ID:
#02-856137

DESCRIPTION:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in cor
Continuation Sheet.

1. ORIGINAL CONTRACT SUM
2. Net change by Change Orders
3. CONTRACT SUM TO DATE (Line 1 + 2)
SCHEDULE OF VALUE
4. TOTAL COMPLETED & STORED TO DATE
5. RETAINAGE:
a. 3.41% of Completed Work
(Columns D + E)
b. 0.00% of Stored Material
(Column F)
Total Retainage (Line 5a + 5b)
6. TOTAL EARNED LESS RETAINAGE
7. LESS PREVIOUS APPLICATIONS FOR PAYMENTS
8. CURRENT PAYMENT DUE
9. BALANCE TO FINISH, INCLUDING RETAINAGE ...

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner:	0.00	0.00
Total approved this Month:	0.00	0.00
TOTALS:	0.00	0.00
NET CHANGES by Change Order:	0.00	

The undersigned Contractor certifies that to the best of the Contractor's knowledge,
information and belief the Work covered by this Application for Payment has been completed
in accordance with the Contract Documents, that all amounts have been paid by the
Contractor for Work for which previous Certificates for Payment were issued and payments
received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: Evergreen Construction

By: _____ Date: _____

Jerry Schafrath / Senior Executive CFO

State of: _____ County of: _____

Subscribed and sworn to before me this _____ day of _____

Notary Public:

My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the
data comprising this application, the Architect certifies to the Owner that to the best
of the Architect's knowledge, information and belief the Work has progressed as
indicated, the quality of the Work is in accordance with the Contract Documents, and
that the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ _____

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this
Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor
named herein. Issuance, payment and acceptance of payment are without prejudice to any
rights of the Owner or Contractor under this Contract.

CONTINUATION SHEET

PAGE 2

TO:

From:

Project Name:

Project #:

Application #:

Period:

A	B	C	D	E	F	G		H		I
	DESCRIPTION	SCHEDULED VALUE (\$)	PRIOR COMPLETED AMOUNT (\$)	THIS PERIOD COMPLETED AMOUNT (\$)	PRESENTLY STORED AMOUNT (\$)	(D+E+F) COMPLETED & STORED TO DATE (\$)	(G/C) PROGRESS PERCENT	(C-G) BALANCE TO FINISH (\$)	RETAINAGE PERCENT	RETAINED AMOUNT (\$)
1	01 - Staffing & Site Requirements									10
2	GL Insurance									10
3	02 - Demolition & Site Work									10
4	03 - Concrete									10
5	05 - Metals									10
6	06 - Carpentry & Millwork									10
7	07 - Firestopping, Moisture & Thermal Protection									10
8	08.1 - Doors, Windows									10
9	08.4 - Glass & Storefront									10
10	09.1 - Drywall									10

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CONTINUATION SHEET

PAGE 3

TO:

From:

Project Name:

Project #:

Application #:

Period:

A	B	C	D	E	F	G		H		I
	DESCRIPTION	SCHEDULED VALUE (\$)	PRIOR COMPLETED AMOUNT (\$)	THIS PERIOD COMPLETED AMOUNT (\$)	PRESENTLY STORED AMOUNT (\$)	(D+E+F) COMPLETED & STORED TO DATE (\$)	(G/C) PROGRESS PERCENT	(C-G) BALANCE TO FINISH (\$)	RETAINAGE PERCENT	RETAINED AMOUNT (\$)
11	9.2 - Ceilings									
12	9.3 - Flooring									
13	9.5 - Painting									
14	10 - Specialities									
15	15.1 - Fire Protection									
16	15.2 - HVAC & Plumbing									
17	16 - Electrical									
18	Contingency									
19	Fee									
Totals:										

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Exhibit “B”

Agreement with Faden Builders, Inc.
for construction manager at risk services on an as-needed basis
for Citywide projects which are less than Two Million Dollars
RFQ-19-GS-018

ATTACHMENT #1

AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

THIS AGREEMENT made by and between the City of Mount Dora, a municipal corporation of the State of Florida, 510 N. Baker Street, Mount Dora, Florida 32757, the Community Redevelopment Agency of the City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757, the Northeast Community Redevelopment Agency of the City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757, hereinafter singly and collectively referred to as "Owner" and Faden Builders, Inc, 1194 Camp Avenue, Mount Dora Florida 32757, hereinafter "Construction Manager".

ARTICLE I THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT

The Construction Manager accepts the relationship of trust and confidence established between it and the Owner by this Agreement. The Construction Manager covenants with the Owner to furnish its best skill and judgment and to cooperate with the Architect-Engineer in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and superintendence and use its best efforts to complete the various City project(s) in the soundest and most expeditious and economical manner, consistent with the interests of the Owner.

1.1 The Construction Team:

The Construction Manager, the Owner and the Architect-Engineer, called the "Construction Team", shall work jointly during design and through final construction completion and shall be available thereafter should additional services be required related to the Project. The Architect and the Construction Manager shall communicate through the Owner, except as may otherwise be provided in this Agreement or when direct communications have been specifically authorized by the Owner. The Construction Manager shall copy the Owner on all correspondence sent to or received from the Architect or any of its consultants of which the Owner was not copied.

The specific representatives of the Construction Team shall be established at the time of approval of each Task Authorization.

1.2 Extent of Agreement:

This Agreement for pre-construction and construction management services for the Project, between the Owner and the Construction Manager supersedes any prior negotiations, representations or agreements. The City will from time to time issue a Task Authorization to the Construction Manager, in the form attached hereto as **Exhibit "A"**, for individual City projects which may include either pre-construction and construction management services or construction management services only. If pre-construction services are required as part of a Project, an initial Task Authorization will be issued by the City Manager if the cost of the pre-construction services is within the City Manager's purchasing authority. Thereafter, once the drawings, specifications and other descriptive

ATTACHMENT #1

documents for the Project are complete, an Amendment to Task Authorization in the form attached hereto as **Exhibit "B"**, will be issued following approval by the City Council of the guaranteed maximum price (GMP) for the specific construction management work to be completed for the Project. In the event pre-construction services exceed the City Manager's purchasing authority, a Task Authorization for the pre-construction services will be issued on the appropriate form, following approval of the same by the City Council. Thereafter, once the drawings, specifications and other descriptive documents for the Project are complete, an Amendment to Task Authorization, which shall include the GMP for the specific construction management work to be completed for the Project, shall be issued on the appropriate form following approval by the City Council. In the event pre-construction services are not required for a Project, once the drawings, specifications and the other descriptive documents for a Project have been approved, a Task Authorization will be issued following approval of the GMP for the Project by the City Council. To expedite the preparation of the GMP Amendment by the Owner, the Construction Manager shall obtain two (2) sets of dated drawings, specifications and other documents upon which the GMP is based from the Architect-Engineer via the Owner. The Construction Manager shall acknowledge on the face of each set of drawings, that it is the set upon which the GMP is based. Thereafter one set of the documents shall be sent to the Owner along with the GMP proposal. This Agreement shall not be superseded by any provisions/revisions of the documents for construction and may be amended only by written instrument signed by both Owner and Construction Manager.

- 1.3 **Definitions:** The following definitions shall be applicable to this Agreement. Any words which are not set forth below but are found capitalized throughout this Agreement shall have the meanings established in the various Articles and/or Sections of this Agreement:

Architect-Engineer - To be determined by the Owner as applicable for each separate Project for which a Task Authorization is issued.

Construction Documents - This Contract, the Drawings, Specifications and related Construction Documents or any other documents incorporated herein by reference.

Construction Manager – Faden Builders, Inc.

Estimate - The Construction Manager's latest estimate of probable project construction costs

Final Completion - The following items have been completed or satisfied:

1. Construction of the Project is totally complete, including all work on the Contract Documents and certified as such by the Owner and Architect.
2. The Project is suitable for full use and occupancy as determined by the Owner and Architect.
3. All Punch List items have been completed or otherwise disposed of or accounted for to the Owner's satisfaction and approval.

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4. A Final Certificate of Occupancy and all other permits and approvals required have been legally and validly issued.
5. Final executed Releases of Lien have been delivered to the Owner by Construction Manager.

General Conditions - Those items that are not specific to any trade and are required for the construction of the Project. Examples of General Conditions items include daily cleanup and safety rails.

Owner - City of Mount Dora, a municipal corporation of the State of Florida, on behalf of itself, the Community Redevelopment Agency of the City of Mount Dora (CRA) pursuant to Resolution 2020-24 (CRA) and the Northeast Community Redevelopment Agency of the City of Mount Dora (Northeast CRA) pursuant to Resolution 2020-24 (Northeast CRA).

Owner's Representative - The Owner's Representative is its Construction Project Manager, who is Chet Cramer, or such other individual designated, in writing, by the City Manager.

Project - The Project shall mean the total work to be performed under each Task Authorization, or Amendment thereto, issued pursuant to this Agreement. The Project may consist of pre-construction planning, design and permitting services, as well as construction and code inspection services for various construction projects which do not exceed Two Million Dollars in total construction costs.

Punch List - List of items of work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to final acceptance/completion.

Substantial Completion Date - The date, certified by the Architect, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and a Certificate of Occupancy issued, so that the Owner can reasonably occupy or utilize the Project, or designated portion thereof, for its intended use. Additionally, complete all items referred to as necessary for Substantial Completion.

Task Authorization or Amendment to Task Authorization - The document issued to the Construction Manager which sets forth the service expectations, schedules, pricing/GMP, construction team and subcontractors for a specified Project.

1.4 Owner's Construction Budget:

Owner's funds budgeted and requested for construction of the Project: The Owner's Construction Budget for each Project is Two Million Dollars or less, including all preconstruction services, Construction Manager fees, costs of the work and the Owner's and Construction Manager's construction and interface contingencies as defined in Articles

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8 and 9. This acknowledgment of the Owner's budgeted funds is not to be construed as the Construction Manager's Guaranteed Maximum Price. A Guaranteed Maximum Price will be offered by separate documentation as outlined in Article 7.

ARTICLE 2 CONSTRUCTION MANAGER'S SERVICES

The services which the Construction Manager shall provide include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned.

2.1 Project Management Information System (PMIS):

1. General:

- A. Commencing immediately after contract award, the Construction Manager shall implement and shall utilize throughout the life of this Contract all subsystems of the Project Management Information System hereinafter referred to as PMIS.
- B. The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the Owner and the Architect-Engineer monthly.
- C. If requested by the Owner, the Construction Manager shall conduct a comprehensive workshop for participants designated by the Owner and additional seminars as required, to provide instruction. This workshop and the seminars shall facilitate each participant's and the Owner's representatives' use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect-Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the Owner and the Architect-Engineer, procedures for accomplishing the management control aspect of the Project.
- D. The PMIS shall be described in terms of the following major subsystems:
 - 1. Narrative Reporting, on a monthly basis,
 - 2. Schedule Control, on a monthly basis,
 - 3. Cost Control, and estimating,
 - 4. Project Accounting,

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5. Accounting and Payment, and
 6. Action Reports.
2. Narrative Reporting Subsystem:
- A. The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8.5" X 11" format, unless directed otherwise by the Owner.
 - B. The Narrative Reporting Subsystem shall include the following reports:
 1. Monthly Executive Summary - which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including code violations found by any permitting authority.
 2. Monthly Cost Narrative - describing the current construction cost estimate status of the Project.
 3. Monthly Scheduling Narrative - summarizing the current status of the overall project schedule. This report shall include an analysis of the various project schedules, a description of the critical path, and other analyses as necessary to compare planned performance with actual performance.
 4. Monthly Accounting Narrative - describing the current cost and payment status of the entire project. This report shall relate current encumbrances and expenditures to the budget allocations.
 5. Monthly Construction Progress Report - summarizing the work of the various subcontractors during the construction phase. This report shall include information from the weekly job site meetings, as applicable, such as general conditions, long lead supplies, current deliveries, safety and labor relations programs permits, construction problems and recommendations and plans for the succeeding month.
 6. Daily Construction Diary - during the construction phase describing events and conditions on the site.
 - C. The reports outlined above shall be bound with applicable computer reports and submitted monthly during design and construction phases and shall be current through the end of the preceding month. Copies shall be transmitted to the Owner and the Architect-Engineer and others as designated by the Owner's Representative with the monthly pay requisition. Additional copies of the report outlined above shall be bound separately and distributed monthly as directed by the Owner's Representative.

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- D. The report outlined in Article 2.1(2)(B)(6) above shall be maintained at the site available to the Owner and Architect-Engineer. A bound copy of the complete Daily Construction Diary shall be submitted to the Owner at the conclusion of the Project
3. Scheduled Control Subsystem:
- A. Master Project Schedule - Within thirty (30) days of award of this Agreement, the Construction Manager shall submit, to the Owner for approval, a master project schedule covering the planning and design approvals, construction and Owner occupancy of the Project. This schedule shall serve as the framework for the subsequent development of all detailed schedules. The master project schedule shall be produced and updated monthly throughout the project. Revisions, activity additions, activity deletions and/or logic changes to the Master Project Schedule, or any other schedule previously approved by the Owner, shall not be made without the Owner's approval.
 - B. Within thirty (30) days after the date of the Owner's issuance of a Notice to Proceed with construction, the Construction Manager shall prepare and submit for approval, to the Owner's Representative, a construction schedule in quadruplicate with sufficient detail to graphically depict the activities contemplated for completion of the Project and which shows the sequence that the Construction Manager proposes for each such activity to occur and the duration (dates of commencement and completion, respectively) of each such activity. The Owner shall determine whether the construction schedule developed and submitted by the Construction Manager meets the requirements stated herein and thereafter such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a construction schedule as set forth hereinabove shall be sufficient grounds for the Owner to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the contract or to withhold payment to the Construction Manager until a schedule acceptable to the Owner is submitted.
 - C. During the period of time required to finally complete the Project, at the end of each such calendar month or at such earlier intervals as circumstances may require, the Construction Manager shall update the construction schedule to show the actual progress of the work performed and the occurrence of all events which have affected the progress of performance of the work already performed or will affect the progress of the performance of the work yet to be performed in contrast with the planned progress of performance of such work, as depicted on the original construction schedule and all updates thereto as reflected in the updated construction schedule last submitted. Each such update to the construction schedule shall be submitted to the Owner in duplicate. Failure of the Construction Manager to update,

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revise and submit the construction schedule as set forth herein shall be sufficient grounds for the Owner to find the Construction Manager in substantial default, and certify that sufficient cause exists to terminate the Contract or to withhold payment to the Construction Manager until a schedule or schedule update acceptable to the Owner is submitted. No revisions, activity additions, activity deletions or logic changes shall be made without the Owner's approval, which shall not be unreasonably withheld.

D. When required by the Owner, the Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:

1. Subcontractor Construction Schedules - Upon the award of each sub-contract, the Construction Manager shall jointly, with the subcontractor, develop a schedule which is more detailed than the pre-bid schedule included in the specifications, taking into account the work schedule of the other subcontractors. The construction schedule shall include as many activities as necessary to make the schedule an effective tool for construction planning and for monitoring the performance of the subcontractor. The construction schedule shall also show pertinent activities for material purchase orders, shop drawing schedules and material delivery schedules.
2. Occupancy Schedule - The Construction Manager shall jointly develop with the Architect-Engineer and Owner a detailed plan, inclusive of punch lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Owner occupancy. The Occupancy Schedule shall be produced and updated monthly from its inception through final Owner occupancy.

E. All schedules will be provided to the Owner in an electronic format acceptable to the Owner. The Construction Manager will provide the Owner with the appropriate software, if necessary, to read the data. The cost of providing the licenses and software shall be part of the cost of construction and included as part of Article 9, Direct Costs of the Project.

4. Budget Control Subsystem:

The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the Project requirements, needs, materials, equipment and systems by building and site elements so that construction will be completed at a cost which, together with all other Project costs, will not exceed the maximum total Project budget. Requirements of this subsystem include the following submissions at the following phases of the project:

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Estimates - Prior to the start of pre-construction services, the requirement of the following estimates will be determined by the Owner:

- A. Completion of Schematic Documents.
- B. Completion of fifty percent (50%) Design Development Documents.
- C. Completion of one hundred percent (100%) Design Development Documents.
- D. One hundred percent (100%) GMP Estimate - When the Construction Documents are sufficiently complete enough to establish the GMP.

5. Project Accounting Subsystem:

The operation of this subsystem shall enable the Construction Team to monitor and control the funds available for the Project, cash flow, costs, change orders, payments and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, amounts payable and to plan effectively. This subsystem will be produced and updated monthly and includes the following reports, which together will serve as a basic accounting tool and an audit trail. This report will also provide for accounting by building and site element.

- A. Cost Status Report - presenting the budget, estimate and base commitment for any given contract or budget line item. It shall show approved change orders for each contract which when added to the base commitment will become the total commitment. Pending change orders will also be shown to produce the total estimated probable cost to complete the work.
- B. Payment Status Report - showing the value in place, both current and cumulative, the amount invoiced (both current and cumulative), the amount retained, the amount payable (both current and cumulative) and the balance remaining. A summary of this report shall accompany each pay request.
- C. Detailed Status Report - showing the complete activity history of each item in the Project accounting structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the change order history including change order numbers, description, proposed and approved dates and proposed and approved dollar amounts. Pending or rejected change orders shall also be shown.
- D. Cash Flow Diagram - showing the projected accumulation of cash payments against the project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments.

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- E. Job Ledger - shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The Job Ledger will be used to provide construction cost accountability for general conditions work, on-site reimbursable expenses and costs requiring accounting needs.

2.2 Project Manual:

When directed by the Owner, the Construction Manager shall provide the following:

1. Upon issuance of a Task Authorization, the Construction Manager shall develop a draft comprehensive Project Manual describing the services set forth in this Contract for Owner's approval, providing a plan for the control, direction, coordination and evaluation of work performed, including identification of key personnel, responsibilities of Construction Manager, responsibilities of Owner and responsibilities of the specified Architect-Engineer, work flow diagrams and strategy for bidding the work. The Project Manual shall be updated as necessary with the Owner's approval throughout the design, construction and Owner occupancy phases. Two copies of the Project Manual and any updates shall be submitted to the Owner and Architect-Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the Owner and the Architect-Engineer.
2. Contents of Project Manual - The Project Manual shall describe in detail the procedures for executing the work and the organizations participating. The Project Manual shall include as a minimum the following sections:
 - A. Project Definition - The known characteristics of the project or sub-projects shall be described in general terms which will provide the participants a basic understanding of the project or sub-projects.
 - B. Project Goals - The schedule, budget, physical, technical and other objectives for the Project shall be defined.
 - C. Project Strategy - A narrative description of the Project delivery methods being utilized to accomplish the project goals shall be listed.
 - D. Project Work Plan - A matrix display of the program of work to be performed by the Construction Manager, the Architect-Engineer and the Owner during each phase of the Project.
 - E. Project Organization - A summary organization chart showing the interrelationships between the Owner, the Construction Manager and the Architect-Engineer, and other supporting organizations and permitting review agencies. Detailed charts shall be included, one each for the Construction Manager, the Architect Engineer and the Owner, showing the organizational elements participating in the Project.

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- F. Responsibility Performance Chart - A detailed matrix showing the specific responsibilities and interrelationships of the Owner, the Architect Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the project, and also for the personnel of the Owner and the Architect-Engineer from data supplied by each.
- G. Flow Diagrams - Charts displaying the flow of information and the decisional process for the review and approval of shop drawings, submittals, progress and change orders.
- H. Written Procedures – Procedures for communications and coordination required between Construction Team members throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews and other necessary communications.

2.3 Design and Review and Recommendations:

The Construction Manager shall perform the services described in this Article. The services to be provided herein constitute the Pre-construction phase services. The parties acknowledge the Construction phase may commence before the Pre-construction phase is completed, and to a certain extent both phases may proceed concurrently.

- 1. Preliminary Evaluation - The Construction Manager shall provide a preliminary evaluation of the Owner's Project and Project budget requirements, each in terms of the other.
- 2. Consultation - The Construction Manager will jointly schedule and attend regular meetings with the Owner and Architect. The Construction Manager will consult with the Owner regarding site use and improvements, and the selection of materials, building systems and equipment. The Construction Manager will provide recommendations on construction feasibility; actions designated to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets, and possible economies.
- 3. Phased Construction - The Construction Manager shall make recommendations to the Owner regarding the phased issuance of Drawings and Specifications to facilitate phased construction of the Project, if such phased construction is appropriate for the Project, taking into consideration such factors as economies, time of performance, availability of labor and materials, and provisions for temporary facilities, if applicable.

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4. Review Reports - Within thirty (30) days after receiving the Construction Documents for each phase of the Project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Articles 2.3(1) and 2.3(2) above and on factors set out in Article 2.3(7) below. Promptly after completion of the review, the Construction Manager shall submit to the Owner, with copies to the Architect-Engineer, a written report covering suggestions or recommendations previously submitted, additional suggestions or recommendations as may be deemed appropriate, and all actions taken by the Architect-Engineer with respect to same, any comments deemed to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2.3(7).

THE CONSTRUCTION MANAGER SHALL WARRANT, TO THE BEST OF THE CONSTRUCTION MANAGER'S KNOWLEDGE, WITHOUT ASSUMING ANY ARCHITECTURAL OR ENGINEERING RESPONSIBILITY, THAT THE PLANS AND SPECIFICATIONS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. THE CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE PLANS AND SPECIFICATIONS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.

The recommendations and advice of the Construction Manager concerning design alternatives shall be subject to the review and approval of the Owner and Owner's professional consultants. Construction Manager shall not assume in anyway the responsibilities of the Architect, in particular, the responsibility of assuring that the drawings and specifications, which shall be identified for each Project prior to the time the GMP is determined, are in accordance with applicable laws, statutes, ordinances, Building Codes, Rules and Regulations; however, if the Construction Manager recognizes that portions of the Drawings and Specifications are inconsistent with applicable laws, statutes, ordinances, Building Codes, Rules and Regulations, the Construction Manager shall promptly notify the Architect and the Owner, in writing.

5. Long Lead Procurements - The Construction Manager shall review the design for the purpose of identifying long lead procurement items such as machinery, equipment, materials and supplies. When each item is identified, the Construction Manager shall notify the subcontractors, the Owner and the Architect-Engineer of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected sub-contracts. The Construction Manager shall keep himself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items and advise Owner and Architect-Engineer of any problems or prospective delay in delivery. The Construction Manager may recommend to the Owner a schedule for procurement of the long-lead time items, which will constitute part of the work, as required to meet the Project Schedule. If such long-lead time items are procured by the Owner, they shall be procured on terms and conditions acceptable to the

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Construction Manager. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, all contracts for such items shall be assigned by the Owner to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall assist in expediting the delivery of long-lead time items.

6. Separate Contracts Planning - Without assuming any design responsibilities, the Construction Manager shall review the design with the Architect-Engineer and make recommendations to the Owner with respect to dividing the work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule while the design is being completed. He shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the Owner.
7. Interfacing -
 - A. The Construction Manager shall take such measures as are appropriate to provide that all construction requirements will be covered in the separate subcontracts for procurement of long lead items, the separate construction subcontracts and the General Conditions items performed without duplication or overlap, sequenced to maintain completion of all work on schedule. Particular attention shall be given to provide that each bid package clearly identifies the work included in that particular separate subcontract, its schedule for start and completion and its relationship to other separate contractors.
 - B. Without assuming any design responsibilities of the Architect-Engineer, the Construction Manager shall include in the reports required under Article 2.3(4) comments on overlap with any other separate subcontracts, omissions, lack of correlation between drawings, and any other deficiencies noted, in order that the Owner and Architect-Engineer may arrange for necessary corrections.
8. Job-Site Facilities - The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Manager and the Owner's representatives and the Architect-Engineer to perform their respective duties in the management, inspection, and supervision of construction.

Tangible personal property otherwise referred to as job-site facilities, include but are not limited to such things as trailers, toilets, computers and any other equipment necessary to carry on the Project. The method of acquiring such job-site facilities, which are planned to become the property of the Owner at the conclusion of the

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Project, shall be evaluated based on cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing and then analyzing which is least expensive over the usage life of the item. The Construction Manager shall present his evaluation with recommendation to the Owner for approval.

When the Construction Manager wishes to supply job-site facilities from his own equipment pool, he shall first evaluate buy versus lease as discussed in the paragraph above. If leasing is found to be the least expensive approach, then he may lease such job-site facilities from his own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained.

For all such facilities purchased, which are to become the property of the Owner at the conclusion of the project, the Construction Manager shall maintain care and custody responsibilities of such facilities until the Project conclusion. The cost of such equipment shall be a Direct Cost of the Project, as defined in Article 9. At the conclusion of the Project, the Construction Manager shall provide the Owner with a complete inventory for each unit of equipment that has been purchased for the Owner. The inventory shall describe the equipment and identify the purchase price, serial number, model number, current location, and condition. Where said equipment has a title, said title shall be properly transferred to the Owner or to his designee.

The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the Owner, the Owner may refuse acceptance of the equipment if the Owner determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager. In such event, the Construction Manager shall reimburse Owner for such item.

9. Weather Protection - The Construction Manager shall ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. The Construction Manager shall submit, to the Construction Team, recommendations as to needed requirements of this nature and as to the contract or contracts in which such weather protection requirements should be included. The Construction Manager is totally responsible for all weather protection necessary to ensure that all new construction and renovation projects are adequately protected from the normal inclement elements.
10. Market Analysis and Stimulation of Bidder Interest -
 - A. The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for

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completing the Project; the Construction Manager shall make analysis as necessary to (1) determine and report on availability of labor, material, equipment, potential bidders, and possible impact of any shortages or surplus of labor or material, and (2) in light of such determinations, make recommendations to the Owner as may be appropriate with respect to long lead procurement, separation of construction into bid packages, sequencing of work, use of alternative materials, equipment or methods, other economics in design or construction, and other matters that will promote cost savings and completion within the scheduled time.

- B. The Construction Manager shall submit to the Owner a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, the Construction Manager shall submit to the Owner and the Architect-Engineer a list of potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the local market place and identify and encourage bidding competition.
- C. The Construction Manager shall carry out an active program of stimulating interest of qualified contractors in bidding on the work and of familiarizing those bidders with the requirements of this project.

2.4 Construction Phase:

- 1. Construction Manager's Staff - The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the work and progress of the subcontractors and the Construction Manager shall provide no less than those personnel during the respective phases of construction as are identified at the time the GMP is determined. The Construction Manager shall not change any of those persons named at the time the GMP is determined unless mutually agreed to by the Owner and Construction Manager. In such case, the Owner shall have the right to approve the qualifications of any replacement personnel. Such approval will not be unreasonably withheld.
- 2. Lines of Authority - The Construction Manager shall establish and maintain lines of authority for its personnel, and shall provide notice of the same to the Owner and all other affected parties such as the code inspectors of the Permitting Authority, the subcontractors, the Architect-Engineer and the Owner's representatives, in order to provide general direction of the work and progress of the various phases and subcontractors. The Owner and Architect-Engineer may attend meetings between the Construction Manager and his subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontractors.

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3. Schedule and Project Manual Provisions - The Construction Manager shall provide subcontractors and the Owner, its representatives and the Architect-Engineer with copies of the Project Manual, a total number of copies not to exceed seven (7) hard copies and an electronic version in a format acceptable to the Owner, developed and updated as required by Article 2.2, expanded for the Construction Phase, employing the respective milestones, beginning and finishing dates, the respective responsibilities for performance and the relationships of the work with respect to subcontractors and suppliers. The Construction Manager shall also continue to provide current and up to date scheduling information, direction and coordination regarding milestones, and beginning and finishing dates. Furthermore, the Construction Manager shall be responsible for performance and the relationships of the Construction Manager's work to the work of its subcontractors and suppliers to enable the same to perform their respective tasks so that the development of construction progresses in a smooth and efficient manner in conformance with the overall project schedule. The schedule shall include all phases of the construction work, material supplies, long lease procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance testing requirements. The Construction Manager shall advise the Owner, its representatives and the Architect-Engineer of their required participation in any meetings or inspections, giving each at least one weeks-notice, unless such notice is made impossible by conditions beyond the control of the Construction Manager. The Construction Manager shall hold job-site meetings at least once each month with the Construction Team or more frequently as required by work progress, to review progress, discuss problems and solutions and to coordinate future work with all subcontractors.
4. Solicitation of Bids -
 - A. Without assuming responsibilities of the Architect-Engineer, the Construction Manager shall prepare invitations for bids, or requests for proposal when applicable, for all procurement of long lead items, materials and services, for Subcontractor contracts and for site utilities. Such invitations for bids shall be prepared in accordance with the following guidelines:

Those portions of the work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Construction Manager shall obtain bids from subcontractors, vendors, consultants and from suppliers of materials or equipment fabricated to a special design for the work. The Construction Manager shall strive to receive at least three (3) competitive bids per trade package. Should the nature of the trade package prohibit three (3) competitive bids, the Construction Manager shall notify the Owner in writing as to the reason and offer suggestions, if any, to create trade interest.

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- B. The Construction Manager shall be responsible for coordinating with the Architect-Engineer and preparing all information that is the responsibility of the Construction Manager for bidding of the separate bid packages.
 - C. As part of such preparation, the Construction Manager shall review the specifications and drawings prepared by the Architect-Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Construction Manager shall be brought to the attention of the Owner and Architect-Engineer in written form.
 - D. The Construction Manager and the Owner's Representative shall mutually agree when and if to conduct a pre-bid conference with prospective bidders and the Architect-Engineer. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the Owner and the Architect-Engineer and upon receiving clarification or correction in writing shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.
 - E. The Construction Manager shall not enter into contracts without the Owner reviewing the proposed successful bidder. The Owner shall promptly, within three (3) business days, review all proposals and provide comments so as not to cause delay in the award of a contract. Owner's failure to respond within this time frame shall constitute acceptance of the proposed contract. Owner shall have the right to reject any award of subcontract providing such rejection is justifiable and with cause. Should the Owner reject a proposal and should the next bondable, qualified bidder that is acceptable to the Construction Manager, be greater than the GMP budget for that work item, the Owner shall issue a change order to the Construction Manager, increasing the GMP, for the amount of the difference between the proposed award and that which the Owner has requested.
5. Bonds - In accordance with the provisions of Florida Statutes, Section 255.05, the Construction Manager shall provide to the Owner, on forms furnished by the Owner, a one hundred percent (100%) Performance Bond and a one hundred percent (100%) Labor and Material Payment Bond each in an amount not less than the total construction cost as defined in Articles 7, 8 and 9. To be acceptable to the Owner, as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:
- A. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.

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- B. The Surety Company shall have currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
- C. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
- D. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time a bond is issued.
- E. The Surety Company shall have at least the following minimum ratings in the latest issue of Best's Key Rating Guide.

Contract Amount	Policy Holder's Rating	Required Financial Rating
\$500,000 to \$1,000,000	A	Class IV
\$1,000,000 to \$2,500,000	A	Class V
\$2,500 000 to \$5,000 000	A	Class VI
\$5,000,000 to \$10,000 000	A	Class VII
\$10,000,000 to \$25,000,000	A	Class VIII
\$25 000 000 to \$50,000,000	A	Class IX
\$50,000,000 to \$75,000,000	A	Class X

- 6. Quality Control - The Construction Manager shall develop and maintain a written program, acceptable to the Owner and Architect-Engineer, to assure quality control of the construction. He shall supervise the work of all subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and he shall continue to exert his influence and control over each subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the work. Should disagreement occur between the Construction Manager and Architect-Engineer over acceptability of work and conformance with the requirements of the specifications and plans, the Owner shall be the final judge of performance and acceptability.
- 7. Subcontractor Interfacing - The Construction Manager shall be the single point of interface with all subcontractors for the Owner and all of its agents and representatives including the Architect-Engineer. He shall negotiate all change orders, field orders and request for proposals, with all affected subcontractors and

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shall review the costs of those proposals and advise the Owner and Architect-Engineer of their validity and reasonableness, acting in the Owner's best interest prior to requesting approval of each change order from the Owner. Before any work begins on any change order, a written authorization from the Owner must be issued. However, when health and safety are threatened, the Construction Manager shall act immediately to remove the threat to health and safety. The Construction Manager shall carefully review all shop drawings and forward the same to the Architect for review and action. The Architect shall transmit them back to the Construction Manager who will then issue the shop drawings to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote expeditious handling. The Construction Manager shall request the Architect-Engineer via the Owner to make interpretations of the drawings or specifications requested of the Construction Manager by the subcontractors and shall maintain a suspense control system to promote timely response. The Construction Manager shall advise the Owner and Architect-Engineer when timely response is not occurring on any of the above.

8. Permits - The Construction Manager shall secure all necessary building permits from the Permitting Authority and all necessary utility connection permits, the cost of which will be considered a Direct Cost of the project, but not subject to a Construction Phase Fee, as described in Article 8.1(3).
9. Job Site Requirements -
 - A. The Construction Manager shall provide for each of the following activities as a part of its Construction Phase Cost:
 1. Maintain a log of daily activities, including manpower records, weather, delays, major decisions, etc.
 2. Maintain a roster of companies on the project with names and telephone numbers of key personnel.
 3. Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.
 4. Provide labor relations management for a harmonious, productive project.
 5. Provide a safety program for the project to meet OSHA requirements. Monitor for subcontractor compliance without relieving any subcontractor of responsibilities to perform work in accordance with the best acceptable practices.
 6. Provide a quality control program.

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7. Provide miscellaneous office supplies that support the construction efforts.
 8. Travel to and from its home office to the project site, as the project requires.
- B. The Construction Manager shall provide personnel and equipment or shall arrange for separate subcontracts to provide each of the following as a direct cost item:
1. Schedule the services of independent testing laboratories for the necessary testing of materials to ensure conformance to contract requirements.
 2. The printing and distribution of all required bidding documents and shop drawings, including the sets required by the Permitting Authority's inspectors.
10. Job Site Administration - The Construction Manager shall provide administrative functions during construction to assure proper documentation, including but not limited to such things as the following:
- A. Job Meetings - Hold weekly progress and coordination meetings to provide for an easy flowing project implementation process, assure timely submittals, expedite processing approvals and return of shop drawings and samples; Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing and labor allocation; Review and coordinate each subcontractor's work; Review and implement revisions to the project schedule; Monitor and promote safety requirements.
- Use the job site meeting as a tool for planning of work and enforcing schedules and for establishing procedures, responsibilities, and identification of authority for all to clearly understand.
- Identify party or parties responsible for follow up on any problems, delay items or questions and record course for solutions. Revisit each pending item at each subsequent meeting until resolution is achieved. Require all present to make any problems or delaying events known to those present for appropriate attention and resolution.
- A regular monthly project status meeting will be held between the Architect-Engineer, Owner and Construction Manager.
- B. Shop Drawing Submittals/Approvals - Provide staff to check shop drawings and to implement procedures to be approved by Owner for submittal and

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transmittal to the Architect-Engineer and Owner of such drawings for action, and closely monitor their submittal and approval process.

- C. Material and Equipment Expediting - Provide staff to closely monitor material and equipment deliveries and to implement checking and follow-up procedures on supplier commitments of all subcontractors.
- D. Payments to subcontractors - Develop and implement a procedure for review, processing and payment of applications by subcontractors for progress and final payments.
- E. Document Interpretation - Refer all questions for interpretation of the documents prepared by the Architect-Engineer to the Architect-Engineer through the Owner.
- F. Reports and Project Site Documents - Record the progress of the project. Submit written progress reports to the Owner and the Architect-Engineer, including information on the subcontractor's work and the percentage of completion. Keep a daily log available to the Owner, the Architect-Engineer and the Permitting Authority inspectors.
- G. Subcontractor's Progress - Prepare periodic punch lists for the subcontractor's work including unsatisfactory or incomplete items and schedules for their completion.
- H. Substantial Completion - Ascertain when the work, or designated portions thereof, are ready for the Owner's and the Architect-Engineer's substantial completion inspection. Prior to the Owner's and Architect's pre-substantial completion inspection, the Construction Manager shall issue a list of incomplete items. After the Owner's and the Architect-Engineer's inspection, the Construction Manager shall prepare a schedule for the completion of the list, indicating completion dates for the Owner's review. The Owner and the Architect-Engineer will issue a Certificate of Substantial Completion in the format prescribed in **Exhibit "C"**, when the work on the Construction Manager's pre-substantial Punch List has been accomplished, to the best of the Construction Manager's ability.
- I. Final Completion - Monitor the Subcontractor's performance on the completion of the Project and provide notice to the Owner and Architect-Engineer that the work is ready for final inspection. Secure and transmit to the Owner, through the Architect-Engineer, all required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings and maintenance books, including issuance of the Certificate of Final Completion attached as **Exhibit "D"**.

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- J. Start-Up - With the Owner's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade contractors.
 - K. Record Drawings - The Construction Manager shall monitor the progress of its own forces or its Subcontractors on marked up field prints, which at project completion, shall be sent to the Architect-Engineer through the Owner who will prepare the final record drawings. Continuously review "As-Built" Drawings and mark up progress prints to provide as much accuracy as possible.
11. Administrative Records - The Construction Manager may be required to maintain, at the job site, current and up to date files and records such as, but not limited to the following:

Contracts or Purchase Orders
Davis Bacon Federal Compliance Documents
ARRA / Build America Bonds Compliance Documentation
Shop Drawing Submittal/Approval Logs
Equipment Purchase/Delivery Logs
Contract Drawings and Specifications with Addenda
Warranties and Guarantees
Cost Accounting Records:
Labor Costs
Material Costs
Equipment Costs
Cost Proposal Requests
Payment Request Records
Meeting Minutes
Cost-Estimates
Bulletin Quotations
Lab Test Reports
Insurance Certificates and Bonds
Contract Changes
Purchase Orders
Material Purchase Delivery Logs
Technical Standards
Design Handbooks
"As-Built" Marked Prints
Operating & Maintenance Instruction
Daily Progress Reports
Monthly Progress Reports
Correspondence Files
Transmittal Records
Inspection Reports
Bid/Award Information

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Bid Analysis and Negotiations
Punch Lists
PMIS Schedule and Updates
Suspense (Tickler) Files of Outstanding Requirements
Project Manual
Job Photographs

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

12. Owner Occupancy -

The Construction Manager shall:

Provide services during the design and construction phases, which will provide a smooth and successful Owner occupancy of the Project. The Construction Manager shall provide consultation and project management to facilitate Owner occupancy and provide transitional services to get the work, as completed by the contractors, "on-line" in such conditions as will satisfy Owner operational requirements.

Conduct the Construction Manager's preliminary Punch List inspection and coordinate the completion of all Punch List work to be done with Owner occupancy requirements in mind. The Construction Manager shall videotape all major equipment startup procedures and deliver videos as part of the closeout documents.

Catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey the same to the Owner in such a manner as to promote their usability. The Construction Manager shall provide operational training, in equipment use, for all such operators.

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

The Owner may occupy or take control of portions of the Project providing the above items discussed in this paragraph have been completed and the "Substantial Completion", "Start-Up", "Record Drawing", and "Warranty" requirements specified in Article 2.4 above have been completed to the Owner's satisfaction for the portions to be occupied, excluding the requirements for a warranty inspection eleven (11) months after Owner Occupancy.

13. Warranty -

Where any work is performed by the Construction Manager's own forces or by subcontractors under contract with the Construction Manager, the Construction Manager shall warrant that all materials and equipment included in such work will

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be new except where indicated otherwise in Contract Documents, and that such work will be of good quality, free from improper workmanship and defective materials and in conformance with the Contract Documents. With respect to the same work, the Construction Manager further agrees to correct all work found by the Owner to be defective in material and workmanship or not in conformance with the Contract Documents for a period of one year from the date of Substantial Completion or partial occupancy of any portion of the building, whichever comes first, or for such longer periods of time as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Construction Manager shall collect and deliver to the Owner any specific written warranties given by others as required by the Contract Documents. In addition, the Construction Manager shall conduct, jointly with the Owner and the Architect-Engineer, a warranty inspection in approximately eleven (11) months after the date of Owner Occupancy.

ARTICLE 3 OWNER'S RESPONSIBILITIES

3.1 Owner's Information:

The Owner shall provide full information regarding its requirements for the Project.

3.2 Owner's Representatives:

The Owner shall designate in writing any additional representatives authorized to act on the Owner's behalf with respect to the Project, not previously defined in Article 1.3, together with the scope of his/her respective authority. In no event shall any delegation of authority be contrary to state or county laws or codes. Functions to be performed by the Owner as set forth in this Agreement can be delegated by the Owner only by written notice to the Construction Manager from the Owner. The Construction Manager shall be entitled to rely on directions, and it shall be required to follow such directions, from the Owner's Representative designated in Article 1.3 and such other representatives from time to time designated in writing within the authority conferred by the City of Mount Dora City Council in this Agreement or any Amendment or Change Order to this Agreement. The City of Mount Dora City Council hereby authorizes the Article 1.3 Owner's Representative to: (1) act as the Owner's agent and execute documents associated with this Project. Examples of these documents are Construction Manager's Contingency Authorizations, Notices of Commencement, Certificates of Substantial Completion and permits from applicable agencies; (2) administer, coordinate, interpret and otherwise manage the contractual provisions and requirements of this Agreement; (3) negotiate a duly authorized Change Order on behalf of the Owner; and (4) issue a duly authorized purchase order, memorandum, letter or other instrument covering the services and work to be provided pursuant to this Agreement. Directions and decisions made by Owner's Representatives shall be binding on the Owner.

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The City of Mount Dora City Council additionally authorizes the City Manager, in conjunction with the Owner's Representative, to authorize changes in the work up to \$35,000.00 (Thirty-five Thousand and 00/100 Dollars) or such other dollar amount as authorized by policy adopted by the City Council. Said work can be funded from the Owner's Contingency and shall not cause an increase to the overall project budget.

3.3 Architect-Engineer's Agreement:

The Owner shall retain an Architect-Engineer for design and to prepare Construction Documents for the Project. The Architect-Engineer's services, duties and responsibilities are described in the Agreement between the Owner and the Architect-Engineer, a copy of which will be furnished to the Construction Manager. The Agreement between the Owner and the Architect-Engineer shall not be modified without written notification to the Construction Manager.

3.4 Site Survey and Reports:

The Owner shall provide all surveys describing the physical characteristics, soil reports, and subsurface investigations, legal limitations, utility locations and a legal description for the Project.

3.5 Approvals and Easements:

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

3.6 Legal Services:

The Owner shall furnish such legal services as may be necessary for providing the items set forth in Article 3.5 and such document examination and interpretation as may require.

3.7 Drawings and Specifications:

The Construction Manager will be furnished a reproducible set of all copies of Drawings and Specifications reasonably necessary and ready for printing.

3.8 Cost of Surveys and Reports:

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the Owner's expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof.

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3.9 Project Fault Defects:

If the Owner becomes aware of any fault or defect in the Project or non-conformance with the Drawings and Specifications, it shall give prompt written notice thereof to the Construction Manager and Architect-Engineer.

3.10 Funding:

The Owner shall furnish, in accordance with the established schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project. The Construction Manager shall not commence any work, unless authorized in writing by the Owner.

3.11 Lines of Communication:

The Owner and the Architect-Engineer, through the Owner, shall communicate with the subcontractors or suppliers only through the Construction Manager while such method of communication is effective in maintaining project schedules and quality.

3.12 Permitting & Code Inspections:

The Owner recognizes and coordinates with the appropriate Permitting Authority and expects the Construction Manager to do the same.

ARTICLE 4 PERMITS, FEES AND NOTICES

4.1 Unless otherwise provided in the Contract Documents, the Construction Manager shall secure and pay for the building permits, which are customarily secured by a General Contractor.

4.2 The Construction Manager shall comply with and give notices, as required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Project.

4.3 It is not the Construction Manager's responsibility to ascertain whether the Contract Documents are in accordance with applicable laws, statutes, ordinances, Building Codes and Rules and Regulations; however, if the Construction Manager observes that portions of the Contract Documents are inconsistent therewith, the Construction Manager shall promptly notify the Architect-Engineer and Owner in writing and necessary changes shall be accomplished by appropriate modification.

4.4 If the Construction Manager performs work knowing it to be contrary to applicable laws, statutes, ordinances, Building Codes and Rules and Regulations without such notice to the Architect-Engineer and Owner, the Construction Manager shall assume full responsibility for such work and shall bear all attributable costs and damages.

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- 4.5 Cost for all re-inspections of work found to be defective and subsequently repaired, shall be borne by the Construction Manager if such defective work was performed knowingly contrary to applicable laws, statutes, ordinances, Building Codes and Rules and Regulations.

ARTICLE 5 SUBCONTRACTS

5.1 Definition:

A subcontractor is a person or organization who has a direct contract with the Construction Manager to perform any of the work at on the Project. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner or Architect-Engineer and any subcontractor.

5.2 Proposals:

Subject to Article 9 and, in accordance with Article 2.4(4), the Construction Manager shall request and receive proposals from subcontractors and suppliers and will award those contracts to the qualified low bidder after reviewing all proposals with the Owner and Architect-Engineer and all are satisfied that the subcontractor/supplier is qualified to perform work or provide materials for the Project.

5.3 Required Subcontractors' Qualifications and Subcontract Conditions:

1. Sub-contractual Relations - The Construction Manager shall require each Subcontractor to assume all the obligations and responsibilities which the Construction Manager owes the Owner under this Agreement, to the extent of the work to be performed by the Subcontractor. Said agreements shall be made in writing and shall preserve and protect the rights of the Owner and Architect-Engineer under the Contract Documents with respect to the work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each Subcontractor to enter into similar agreements with its sub-subcontractor. Insurance requirements for Subcontractors shall be no more stringent than those requirements imposed on the Construction Manager by the Owner.

The Construction Manager shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound.

2. All subcontracts shall provide -

LIMITATION OF REMEDY- NO DAMAGES FOR DELAY

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The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Architect-Engineer or attributable to the Owner or Architect-Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim.

In the event of a change in the work, the Subcontractor's claim for adjustments in the contract sum are limited exclusively to its negotiated costs for such changes plus no more than seven percent (7%) for overhead, profit and bond costs.

The subcontract shall require the subcontractor to expressly agree that the foregoing constitutes the sole and exclusive remedy for delays and changes in the work and eliminates any other remedies or claims for increase in the contract price, damages, losses or additional compensation. Each subcontract shall require that any claims by the subcontractor for delay or additional cost must be submitted to the Construction Manager within the time and in the manner in which the Construction Manager must submit such claims to the Owner, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

5.4 Responsibilities for Acts and Omissions:

The Construction Manager shall be responsible to the Owner for the acts and omissions of its employees, agents, subcontractors, the agents thereof and employees thereof, and all other persons performing any of the work or supplying materials for the Project under a contract to the Construction Manager.

ARTICLE 6 SCHEDULE, TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 6.1 At the time a Guaranteed Maximum Price (GMP) is established as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date and an Owner Occupancy Date for completion of the Project in accordance with the master project schedule, shall also be established by the Construction Team. The Construction Manager agrees to complete the construction in accordance with the agreed Substantial Completion Date, Final Completion Date and Owner Occupancy Date. The Construction Manager acknowledges that failure to complete the Project within the construction time set forth in the approved schedule will result in substantial damages to the Owner. These liquidated damages are the sole remedy for delay, shall in no way be deemed a waiver of the Owner's right to all other legal remedies in this Agreement.

In the event the Construction Manager does not achieve the Substantial Completion Date the Construction Manager shall pay the Owner, as liquidated damages and not as a penalty, in the amount of Five Hundred Dollars (\$500.00) for each calendar day the actual time of

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performance exceeds the authorized Substantial Completion Date for each separate GMP as applicable.

- 6.2 The date of Owner Occupancy shall occur as described in Article 2.4(12) herein above. Warranties called for by this Agreement or by the Contract Documents shall commence on the Substantial Completion Date, unless otherwise agreed to, in writing, between the Owner and Construction Manager.

ARTICLE 7 GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION

- 7.1 When the design documents are sufficiently complete to establish the scope of work for the Project, or any portion thereof, as generally defined by a design document listing to be provided by the Architect-Engineer, or at such time thereafter designated by the Owner, the Construction Manager will establish and submit in writing to the Owner for approval, a Guaranteed Maximum Price (GMP), guaranteeing the maximum price to the Owner, for the construction cost of the Project or designated part thereof. The Construction Manager acknowledges multiple GMPs may be required for the portions of the Project to support the project phasing and schedule. Such Guaranteed Maximum Price will be subject to modification for changes in the Project as provided in Article 10; however, the actual price paid for the work by the Owner shall be the actual cost of all work subcontracts, supply contracts, direct labor costs, direct supervision costs and direct job costs as defined under Article 9, plus the Construction Manager's costs and fees, or the GMP, whichever is less when the work is complete.
- 7.2 The GMP will only include those taxes, in the cost of the Project, which are legally enacted at the time the GMP is established.
- 7.3 At the time of submission of a GMP, the Construction Manager will verify the time schedule for activities and work, which were adopted by the Construction Team and used to determine the Construction Manager's cost of work. Included in the GMP will be a Contractor's Contingency, which is included for the Construction Manager to use, with the Owner's consent. The contingency is intended to cover the costs associated with Project scope that were not adequately detailed at the time of GMP. The Contractor's Contingency is also intended to protect against price increases between the GMP and the completion of the 100% construction documents, as well as for the purpose of defraying the expenses due to unforeseen circumstances relating to construction and for price increases attributable to any code compliance reviews. The Construction Manager will be required to furnish documentation evidencing expenditures charged to the Contractor's Contingency prior to the release of funds by the Owner. Documentation for use of the Contractor's Contingency shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the Project Management Information System. The Architect-Engineer shall verify the actual costs. If there are funds remaining in the Contractor's Contingency at the conclusion of the Project, said funds will be returned to the Owner, through deductive change order.

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- 7.4 When the Project is bid and one hundred percent (100%) of the trade contracts have been executed, the contingency within the GMP may be decreased in proportion to the percent of the work completed up to a maximum of fifty percent (50%). In other words, if ten percent (10%) of the work has been completed and the Owner requests that the contingency within the GMP be adjusted, then ten percent (10%) of the contingency within the GMP will be removed from the GMP by change order up to a maximum of fifty percent (50%) of the initial GMP contingency value. During the buyout period of the trade contracts, at a point mutually agreed upon between the Owner and Construction Manager, the net amount of the buyout will be reviewed. If the net amount of the total buyout results in excess funds being required, those funds will be taken from the Contractor's Contingency.

If the net amount of the buyout results in a savings, the savings will be assigned to the Owner's Buyout Contingency as defined in Article 7.5

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

- 7.5 The Owner's Buyout Contingency shall be created by the savings generated by subcontractor buyout as set forth in Article 7.4 and also by reductions in scope that otherwise could reduce the GMP. The intent of this Owner's Buyout Contingency is to allow funds already within the GMP to remain in the GMP and be used at the Owner's discretion for scope issues that may become required and/or desired during the course of the Project.

Authorizations up to Thirty-five Thousand and 00/100 Dollars (\$35,000.00), or such other dollar amount as authorized by policy adopted by the City Council, for the use of the Owner's Buyout Contingency, may be granted by the City Manager. Authorizations, for more than Thirty-five Thousand and 00/100 Dollars (\$35,000.00), will be granted by the City Council unless the City Council authorizes an increase in the City Manager's authority for the same.

ARTICLE 8 CONSTRUCTION MANAGER'S COSTS

- 8.1 In consideration of the performance of this Agreement, the Owner agrees to pay the Construction Manager as compensation for his services, costs or fees, as set forth herein.
1. Design Phase/Pre-construction Costs - For the performance of the services set forth under Article 2 and for profit and overhead related to these services, the Construction Manager shall be paid a total amount to be determined prior to the issuance of the Task Authorization. The Design Phase/Pre-construction Costs shall be paid according to the percent complete of the design phase.

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The Construction Manager's personnel to be assigned during this phase and their duties and responsibilities to this project and the duration of their assignments are shown on the Task Authorization.

2. Construction Phase Costs - Prior to commencement of each Construction Phase, the Owner will direct the Construction Manager in writing to proceed into said Construction Phase. The Construction Phase Cost for work or services performed during the Construction Phase shall be an amount of *(To Be Determined at GMP)*. The Construction Phase Costs shall be paid according to the percent complete of the Project. The first monthly payment shall be due thirty (30) days following the issuance of the first Construction Authorization by the Owner's Representative and the final monthly payment shall be paid only when construction of the Project, or portion thereof, is finally completed and occupancy of the Project, or portion thereof, accepted by the Owner. If construction is authorized only for a part of the Project, the costs paid shall be proportionate to the amount of work authorized by the Owner.
 - A. Adjustments in Costs - For changes in the Project as provided in Article 10, the Construction Phase Costs shall be adjusted as follows:
 1. The Construction Manager shall be paid an additional amount subject to negotiation if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss excluding any condition that may have been caused from negligent acts by the Construction Manager.
 2. Should the construction duration for any phase extend longer than stipulated above, there shall be no additional Construction Phase Costs paid to the Construction Manager unless such delays are as defined in Article 10.2.
 3. The Construction Manager will not be due any additional Construction Phase Fee on increases in the Guaranteed Maximum Price (GMP) that do not exceed a cumulative total of two percent (2%) for each separate GMP. Should a GMP be increased by more than a cumulative total of two percent (2%) under the terms of Article 10 hereinafter, due to no fault of the Construction Manager, the Construction Manager's additional Construction Phase Fee will be based on the Original GMP as set forth in the below chart for that portion of the accumulative increases in the GMP that exceed the GMP by more than two percent (2%).

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GMP	Construction Manager's Fee
\$0.00 to \$150,000	14%
\$150,001 to \$500,000	12%
\$500,001 to \$750,000	10%
\$750,001 to \$1,000,000	8%
\$1,000,001 to \$1,500,000	6%
\$1,500,001 to \$2,000,000	5%

Construction Manager's Exclusive Remedy - In the event the construction Substantial or Final Completion date is extended, regardless of whether delay is caused by any act or neglect of the Owner or the Architect-Engineer, or is attributable to the Owner or the Architect-Engineer, the Construction Manager's sole and exclusive remedy is an extension of the Substantial Completion Date and payment of additional Construction Phase Costs and Construction Phase Fee as provided above.

- B. Costs and Expenses Included in Construction Phase Costs – The following are included in the Construction Phase Costs for services during the Construction Phase:
1. Salaries or other compensation of the Construction Manager's employees at its principal office and branch offices.
 2. General operating expenses of the Construction Manager's principal and branch offices related to the Project.
 3. The costs of all data processing staff.
 4. Salaries or other compensation of the Construction Manager's employees at the job site.
 5. General operating expenses incurred in the management and supervision of the Project, except as expressly included in Article 9.
 6. Those services set forth in Article 2.4(9)(A).
 7. Job office supplies including but not limited to paper, pencils, paper clips, file folders, staples and janitorial supplies.
3. Construction Phase Fee - For overhead, profit and general expenses of any kind, except as may be expressly included in Article 9, for services provided during and related to the construction phase, the amount shall be based on the Original GMP as set forth in the chart below and shall be converted to a fixed amount upon acceptance of the GMP, subject to changes as described herein, and shall be paid

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proportionally to the ratio of the cost of the work in place, including stored materials, as it bears on the latest estimate of the total construction cost and/or to the GMP, whichever is less. The balance of the fee shall be paid when construction of the Project, or portion thereof, is finally completed and occupancy of the Project, or portion thereof, is accepted by the Owner. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the Owner. The Construction Manager's exclusive remedy for any adjustments in the Construction Phase Fee is provided in Article 8.1(2).

GMP	Construction Manager's Fee
\$0.00 to \$150,000	14 %
\$150,001 to \$500,000	12%
\$500,001 to \$750,000	10%
\$750,001 to \$1,000,000	8%
\$1,000,001 to \$1,500,000	6%
\$1,500,001 to \$2,000,000	5%

ARTICLE 9 DIRECT COSTS OF THE PROJECT

9.1 Definition:

The term Direct Cost of the Project shall mean costs necessarily incurred in the Project during the Construction Phase for Construction Services and paid by the Construction Manager, which are not included in the Construction Phase Fee. Such costs shall include the items set forth below in this Article.

The Owner agrees to pay the Construction Manager for the Direct Costs of the Project as defined herein. Such payment shall be in addition to the Construction Phase Costs stipulated in Article 8. Invoices submitted under this Article 9 shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

9.2 Direct Cost Items:

1. Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof.
2. Payments due to subcontractors from the Construction Manager or made by the Construction Manager to subcontractors for work performed pursuant to contract under this Agreement.
3. Cost including transportation and maintenance of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workmen, employed or consumed in the performance of the work.

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4. Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Construction Manager or other, including installation, repairs and replacement, dismantling, removal, transportation and delivery costs thereof, which are used in the support of a subcontractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area.
5. Cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction of the Project. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. There shall be no Construction Phase Fee on this item.
6. Losses and expenses sustained by the Construction Manager in connection with the work, not compensated by insurance, including deductibles provided they have resulted from causes other than the negligent misconduct of Construction Manager.
7. Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable.
8. The cost of corrective work, subject to the GMP, except for any corrective work made necessary because of defective workmanship or other problems caused by the negligence of the Construction Manager or its subcontractors or suppliers. No costs shall be paid by the Owner to the Construction Manager for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the Contract Documents or to correct any deficiency or damage caused by the negligent acts by the Construction Manager.
9. Costs for repairs and maintenance, which are consistent with industry standards associated with work required during the warranty period, which may be the responsibility of Construction Manager. This shall not apply to work, which is the responsibility of subcontractors, except in the case of a subcontractor's default.
10. Costs for trash and debris control and removal from the site.
11. Costs incurred due to an emergency affecting the safety of persons and property.
12. Legal costs reasonably and properly resulting from the Project on behalf of the Owner, including handling claims for changes by Subcontractors and Vendors, subject to the following limitations:
 - A. The Owner approved incurring such costs in advance, which approval shall not be unreasonably denied; and
 - B. The legal costs were not incurred as result of the Construction Manager's own negligence or default.

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This paragraph does not provide for payment of legal costs incurred in preparing or asserting claim or requests, by Construction Manager itself, for change orders or in enforcing the obligations of this contract.

13. All costs directly incurred in the performance of the Project for the benefit of the Project and not included in the Construction Phase Costs as set forth in Article 8.
14. If requested by the Owner, the Construction Manager will perform all or a portion of the General Conditions work as a Direct Cost of the Project.
15. If approved by the Owner, the Construction Manager, when qualified, may perform all or a portion of the work for any item listed on the estimate or GMP breakdown where it is deemed advantageous due to schedule or economic benefit as a Direct Cost of the Project.
16. Transportation outside of Lake, Orange or Seminole for those personnel employed directly for the Project, not including relocation expenses. Such transportation must be approved in advance by the Owner, and will be in accordance with the Construction Manager's standard personnel policy.
17. Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the Project.
18. Costs for watchman and security services for the Project.
19. Costs for efficient logistical control of the site, including horizontal and vertical transportation of materials and personnel and costs for adequate storage and parking.
20. Costs for such temporary facilities and temporary protection during construction, as approved by the Owner, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software.
21. Costs for any job site items not referenced herein, not normally provided by the subcontractors, which will be provided by the Construction Manager as required to complete the Project.

ARTICLE 10 CHANGES IN THE PROJECT

10.1 Change Orders:

The Owner, without invalidating this Agreement, may order changes in the Project within the general scope of this Agreement consisting of additions, deletions or other revisions, with the GMP and the Substantial and/or Final Completion Dates being adjusted

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accordingly. All changes in the Project, not covered by an authorized contingency, shall be authorized by a Change Order signed by the Owner before the change is implemented.

1. A Change Order is a written order to the Construction Manager signed by the Owner issued after the execution of this Agreement, authorizing a change in the Project, the Construction Phase Fee, or other attributable cost of the Project.
2. The increase or decrease in the GMP resulting from a change in the Project shall be determined in one or more of the following ways:
 - A. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect-Engineer and Owner;
 - B. by unit prices stated in the Agreement or subsequently agreed upon;
 - C. by cost as defined in Article 9 and a mutually acceptable fixed or percentage fee; or
 - D. by the method provided in Article 10.1(3).
 - E. Should any costs be required for design of an alternative system that would be advantageous to the Project and result in a deductive change order, the Construction Manager shall include the cost of the redesign services of the Architect-Engineer so that the Owner can make proper assessment of the cost of such change. Payment for additional services shall be made by the Owner.
3. If none of the methods set forth in Article 10.1(2) is agreed upon, the Construction Manager, provided it receives a written order signed by the Owner, shall promptly proceed with the work involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. In the event a Change Order is issued under these conditions, the Construction Manager shall establish an estimated cost of the work and the Construction Manager shall not perform any work if the cost exceeds that estimate without prior written approval by the Owner.
4. In the event of either Article 10.1(2) or Article 10.1(3) above, the Construction Manager shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data, of the increase in the Direct Cost of the Project as outlined in Article 9.
5. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Construction Manager to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease.

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6. If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, and that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to the Owner or the Construction Manager, the applicable unit prices and Guaranteed Maximum Price shall be equitably adjusted.
7. In the performance of the work, should concealed conditions be encountered below the surface of the ground or should concealed or unknown conditions in an existing structure be inconsistent with the conditions indicated by the Drawings, Specifications, or Owner furnished information or should unknown physical conditions exist below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Guaranteed Maximum Price and the Substantial and/or Final Completion Dates shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Article 10.2.
8. In the event the Construction Manager encounters material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, petroleum waste, biohazardous substances, radioactive waste or any other substance falling within the category of hazardous or toxic waste under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or any other state or federal environmental statute or regulation, hereinafter collectively referred to as "hazardous waste," the Construction Manager shall immediately stop work in the area affected and report the condition to the Owner in writing. Owner shall thereafter as soon as reasonably possible conduct a thorough investigation to determine if the suspected material in the affected area is in fact hazardous waste and shall certify to Construction Manager that such material is not hazardous waste or if such material is in fact hazardous waste that such hazardous waste has been abated and that it is safe to return to the affected area and resume work. The Construction Manager may require the Owner to furnish copies of reports of tests conducted by a qualified testing laboratory acceptable to Construction Manager verifying the absence of such hazardous waste before Construction Manager will be required to resume work. The Contract time and amount shall thereafter be equitably adjusted to account for the time lost due to the encountering of the hazardous waste and the reasonable cost associated therewith. The Construction Manager shall, through an analysis of network schedule, prove such time delays and associated costs.
9. The Construction Manager shall not be required to perform any work relating to hazardous waste without consent pursuant to this Article 10.

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10.2 Claims for Additional Cost or Time:

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

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

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

10.3 Minor Changes in the Project:

The Owner will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Substantial and/or Final Completion Date and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order. The Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the Project Management Information System. Changes shall be approved by the Owner and Architect-Engineer.

10.4 Emergencies:

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

ARTICLE 11 **DISCOUNTS**

All discounts for prompt payment shall accrue to the Owner to the extent the cost of the item(s) purchased is paid directly by the Owner or from a fund made available by the Owner to the Construction Manager for such payments. To the extent the cost associated with the Project is paid with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment, shall be credited to the cost of the Project.

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ARTICLE 12 PAYMENTS TO THE CONSTRUCTION MANAGER

12.1 Monthly Statements:

The Construction Manager shall submit to the Owner a sworn statement, along with the cost reports required under Article 2.1(5), showing, in detail, all moneys paid out, cost accumulated or costs incurred during the previous period and the amount of the Construction Phase Fees due as provided in Article 8. This data shall be attached to the Partial Pay Request form shown in **Exhibit "E"**. Ten percent (10%) retainage shall be held on all payments until the contract is fifty percent (50%) complete, except when approved by the Owner certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. At fifty percent (50%) completion, the Owner may approve a reduction of the retainage from ten percent (10%) to five (5%) at its discretion. Retainage shall not be withheld on services or fees set forth in Article 8. Payments by the Owner to the Construction Manager shall be made as described in this Article 12. As a condition to application for a monthly partial pay requisition, the Construction Manager agrees that all as-built information will be recorded within thirty (30) days after receipt of information that a change to the Construction Documents has occurred.

12.2 Final Payment:

Final payment constituting the unpaid balance of the Construction Phase Cost of the Project and the Construction Phase Fee, shall be due and payable as described in Article 12.4 after Final Completion, provided that the Project has been finally completed, that the Construction Manager has verified by appropriate signature that it has completed all items and that this Agreement has been finally performed. However, if there should remain work to be completed, the Construction Manager, the Owner, and the Architect-Engineer shall list those items prior to receiving final payment and the Owner may retain a sum equal to the estimated cost of completing any unfinished work and portion of the Construction Manager's retainage, provided that said unfinished items are listed separately and the estimated cost of completing the unfinished items are likewise listed separately. Thereafter, Owner shall pay the Construction Manager monthly, the amount retained for each incomplete item after each such item is completed.

12.3 Payments to Subcontractors:

The Construction Manager shall promptly, within ten (10) days after receipt of payment from the Owner, pay all the amounts due to subcontractors less a retainage of ten percent (10%) until the project is fifty percent (50%) complete, and based on Construction Manager's evaluation of the subcontractor's acceptable performance, the Owner may approve a reduction in retainage from ten percent (10%) to five percent (5%) thereafter. If there should remain items to be completed, the Construction Manager, the Owner and Architect-Engineer shall list those items required for completion and the Construction Manager shall require the retainage of a sum equal to five percent (5%) of the estimated

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

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

12.4 Construction Manager's Payment Rights:

All payments for construction services shall be governed by and made in accordance with Florida's Prompt Payment Act, Florida Statutes, Section 218.735.

12.5 Payments for Materials and Equipment:

Payments will be made for material and equipment not incorporated in the work but delivered and suitably stored at a Project site or another location that is insured to protect the Owner's assets subject to prior approval and acceptance by the Owner on each occasion.

12.6 Withholding Payments to Subcontractors:

The Construction Manager shall not withhold payments to subcontractors if such payments have been made to the Construction Manager. Should this occur, the Construction Manager shall return such moneys to the Owner, adjusting pay requests and project bookkeeping as required. However, this provision shall not apply should payments to subcontractors be withheld as a result of procuring normal process paperwork in accordance with the Construction Manager's contract with said subcontractor. The Construction Manager shall, if requested by the Owner, notify the Owner in writing as to the reason for withholding payment.

ARTICLE 13

INSURANCE, INDEMNITY AND WAIVER OF SUBROGATION

13.1 Indemnity:

The Construction Manager agrees to be liable for any and all damages, losses and expenses incurred, by the Owner, in any way related to or caused by the acts and/or omissions of the Construction Manager, or any of its employees, agents, sub-contractors, representatives, volunteers or the like, to the extent stemming from the services provided by this Agreement. The Construction Manager agrees to indemnify, defend and hold the Owner harmless for any and all claims, suits, judgments, damages, losses and expenses, including

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but not limited to, court costs, expert witness fees, consultation services and attorney's fees, through and including any appeals, arising from and related to any and all acts and/or omissions of the Construction Manager, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like, to the extent stemming from the services provided by this Agreement. Said indemnification, defense and hold harmless activities shall not be limited by any required insurance coverage amounts set forth herein and shall survive termination or natural expiration of this Agreement.

13.2 Construction Manager's Insurance:

1. The Construction Manager shall not commence any construction work in connection with this Agreement until he has obtained all of the following types of insurance and such insurance has been approved by the Owner, nor shall the Construction Manager allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be from insurers qualified and doing business in Florida with an AM Best Company rating of no less than A.
2. Worker's Compensation Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees, and the like, connected with the work of this Project and, in case any work is sublet, the Construction Manager shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the subcontractor's employees unless such employees are covered by the protection afforded by the Construction Manager. Such insurance shall comply with Florida Worker's Compensation Law. In case any class of employees, engaged in hazardous work on the Project, is not protected under the Worker's Compensation statute, the Construction Manager shall provide adequate insurance, satisfactory to the Owner, for the protection of employees not otherwise protected. Employers' liability shall be no less than \$1,000,000/1,000,000/1,000,000.
3. Construction Manager's Public Liability and Property Damage Insurance - The Construction Manager shall take out and maintain during the life of this Agreement, Comprehensive General Liability and Comprehensive Automobile Liability Insurance to protect it from claims of damage for personal injury, including accidental death, as well as claims for property damage which may arise from its operations under this Agreement whether such operations are by the Construction Manager or by anyone directly or indirectly employed by it, and the amount of such insurance shall have the following minimum limits:
 - A. GENERAL LIABILITY: One Million Dollars (\$1,000,000.00) each occurrence; GENERAL AGGREGATE: Two Million Dollars (\$2,000,000.00). There shall not be an EFIS Exclusion Endorsement on any general liability policy;

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- B. Automobile Liability Coverages, One Million Dollars (\$1,000,000.00) combined single limit, and One Million Dollars (\$1,000,000.00) for each occurrence of bodily injury and property damage;
 - C. Excess Liability, Umbrella Coverage, Two Million Dollars (\$2,000,000.00) each occurrence.
- 4. Subcontractor's Public Liability and Property Damage Insurance - The Construction Manager shall require each of its subcontractors to procure and maintain during the life of any such subcontract, insurance coverage of the types specified above or insure the activities of the subcontractors in the Construction Manager's policies, as specified above.
 - 5. "XCU" (Explosion, Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
 - 6. Products and completed operations Coverages - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages. The products and completed operations portions of the liability coverage shall extend for a period of two (2) years after the Final Acceptance of the Project by the Owner.
 - 7. Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.
 - 8. Indemnification Rider -
 - A. To cover to the fullest extent permitted by law, the Construction Manager shall indemnify and hold harmless the Owner and the Architect-Engineer and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Project, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), and to the extent it (2) is caused in whole or in part by any negligent act or omission of the Construction Manager, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right to obligation of indemnity which would otherwise exist as to any party or person described in this Article.

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- B. In any and all claims against the Owner or the Architect-Engineer or any of their agents or employees by any employee of the Construction Manager, any subcontractor, anyone directly or indirectly employed by either or anyone for whose acts either may be liable, the indemnification obligations under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Construction Manager or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
 - C. The obligations of the Construction Manager under this Article 13.2(8) shall not extend to the liability of Architect-Engineer, his agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instruction by Architect-Engineer, its agents or employees provided such giving or failure to give is the primary cause of the injury or damage.
 - D. The Construction Manager hereby acknowledges receipt of Ten Dollars (\$10.00) and other good and valuable consideration from the Owner and acknowledges receipt of Ten Dollars (\$10.00) and other good and valuable consideration from the Architect-Engineer in exchange for giving the Owner and Architect-Engineer, respectively, the indemnification provided above in Articles 13.1 and 13.2.
9. Builder's Risk Coverage - The Construction Manager shall take out and maintain a "Builder's Risk Policy" for each assigned Project, issued to provide coverages on an "all risk" basis including theft. This coverage shall not lapse or be canceled because of partial occupancy by the Owner prior to Final Acceptance of the Project. The Owner may elect to take out and maintain this insurance coverage. Should the Owner purchase said insurance, the insurance policy shall have a deductible for each occurrence of Five Thousand and 00/100 Dollars (\$5,000.00). The Construction Manager shall be responsible for paying any deductible amount.
10. Certificate of Insurance - For every insurance policy required hereunder, the Construction Manager shall provide the Owner with a Certificate of Insurance evidencing such coverage for the duration of this Agreement, or such longer period if required hereunder. Said Certificate of Insurance shall be dated and show:
- A. The name of the insured Construction Manager;
 - B. The specified job by name and job number;
 - C. List the "CITY OF MOUNT DORA" as an Additional Insured;
 - D. Recognizes the Indemnification requirements of this Agreement;
 - E. The name of the insurer;
 - F. The number of the policy;
 - G. The effective date;

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- H. The termination date;
 - I. A statement that the insurer will mail notice to the CITY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.
- 11. Receipt of certificates or other documentation of insurance or policies or copies of policies by the Owner, or by any of its representatives, which indicates less coverage than is required hereunder, does not constitute a waiver of the Construction Manager's obligation to fulfill the insurance requirements specified herein.
 - 12. The Construction Manager shall ensure that any sub-contractor(s), hired to perform any of the work on any part of the Project, maintain appropriate insurance as determined by the Construction Manager. In addition, the Construction Manager shall maintain proof of same on file and made readily available upon request by the Owner.
- 13.3 Waiver of Subrogation:
- 1. The Owner and the Construction Manager waive all rights against each other, for damages caused by perils covered by insurance provided under Article 13.2 to the extent they are covered by such insurance except such rights as either may have to the proceeds of such insurance held by the Owner and Construction Manager as trustees. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
 - 2. The Owner and Construction Manager waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
 - 3. The Owner waives subrogation against the Construction Manager on all property and consequential loss policies carried by the Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.
 - 4. If the policies of insurance referred to in this Article require an endorsement to provide for continued coverage where there is a waiver of subrogation, the Owner of such policies will cause them to be so endorsed and failure to obtain proper endorsement nullifies the waiver of subrogation.

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ARTICLE 14 TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATION

14.1 Termination by the Construction Manager:

If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of sixty (60) days by the Construction Manager, for the Owner's failure to make payments thereon, then the Construction Manager may, upon seven (7) days written notice to the Owner, request payment for all work executed, the Construction Manager's fees earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit thereon and termination expenses incurred by the Construction Manager.

14.2 Owner's Right to Perform Construction Manager's Obligations and Termination by Owner for Cause:

1. If the Construction Manager fails to perform any of its obligations under this Agreement, including any obligation it assumes to perform work with its own forces, the Owner may correct any deficiencies after providing seven (7) days written notice to the Construction Manager. In such an event, the GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the Owner of correcting such deficiencies and the Construction Manager's Construction Phase Fee shall also be reduced by the amount required to manage the correction of such deficiencies.
2. The Owner may, without prejudice to any other right or remedy and upon providing the Construction Manager and its surety, if any, seven (7) days written notice of failures or deficiencies, terminate this Agreement with the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the Project by whatever means or method the Owner, in its sole discretion, deems appropriate.
3. If the Construction Manager is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Construction Manager's insolvency, or if it persistently or repeatedly refuses or fails, except in cases for which an extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule by falling forty-five (45) days or more behind the schedule adopted by the Construction Team, or if the Construction Manager fails to make prompt payments to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations or orders of any public authority having jurisdiction, or

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otherwise is in breach of a material provision of this Agreement, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall it be relieved from its obligations assumed under Article 6. Reasonable termination expenses incurred by the Owner may be deducted from any payments which remain owed to the Construction Manager, excluding any monies owed the Construction Manager for subcontract work.

14.3 Termination by Owner Without Cause:

1. The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient without prejudice to any right or remedy.
2. Upon seven (7) days written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:
 - A. cease operations as directed by the Owner in the notice;
 - B. take actions necessary, or that the Owner may direct, for the protection and preservation of the work; and
 - C. terminate all existing subcontracts and purchase orders and not enter into further subcontracts and purchase orders, except for work directed to be performed prior to the effective date of termination stated in the notice.
3. In case of such termination for the Owner's convenience, the Construction Manager shall be entitled to receive payment for work executed, and costs incurred by reason of such termination, along with a reasonable fee, as defined in Article 8.1(2), overhead and profit on the work performed.

ARTICLE 15

ASSIGNMENT AND GOVERNING LAW

- 15.1 Neither the Owner nor the Construction Manager shall assign its interest in this Agreement without the written consent of the other except as to the assignment of proceeds.
- 15.2 This Agreement shall be governed by the laws of the State of Florida. Venue shall be in Lake County, Florida. The parties waive all rights to trial by jury.

ARTICLE 16

NOTICE OF CLAIM; WAIVER OF REMEDIES

- 16.1 The Owner's liability to the Construction Manager for any claims arising out of or related to the subject matter of this Agreement, whether in contract or tort, including, but not

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limited to, claims for extension of construction time, for payment by the Owner of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:

1. All claims must be submitted as a Request for Change Order in the manner as provided herein;
2. The Construction Manager must submit a Notice of Claim to Owner within twenty (20) days of the Construction Manager becoming aware of the occurrence, or the event, giving rise to the claim; and
3. Within ten (10) days of submitting its Notice of Claim, the Construction Manager shall submit to the Owner its Request for Change Order, which shall include a written statement of all the details of the claim, including a description of the work affected.

The Construction Manager agrees that the Owner shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this paragraph to the extent that the Owner is prejudiced by the failure of the Construction Manager to submit the Request for Change Order.

- 16.2 After receipt of a Request for Change Order, the Owner, in consultation with the Architect-Engineer, shall deliver to the Construction Manager its written determination of the claim.
- 16.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 8, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the Owner or the Architect-Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 16.1 above, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Manager's claims for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus the Construction Manager's Fee established at each Project's Original GMP. The Construction Manager expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in work, and eliminates any other remedies for claims for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

ARTICLE 17

DIRECT MATERIALS ACQUISITION AND SALES TAX EXEMPT PURCHASE PROCEDURES FOR PUBLIC PROJECTS

- 17.1 Direct Materials Acquisition by Owner - Supply Bonds:

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2. The Owner may, if not prohibited by law, exercise a right to purchase directly, various construction materials, supplies and equipment that may be part of this Agreement or of a subcontract, provided that the Owner receives proper authorization from the State of Florida in the form of a Technical Assistance Advisement as set forth in Florida Administrative Code, Rule 12-11.003. Any materials purchased by the Owner shall be referred to as "Owner Purchased Materials" and the responsibilities of both the Owner and the Construction Manager relating to such Owner Purchased Materials shall be governed by the terms and conditions of this Article, which shall take precedence over other conditions and terms of this Agreement where inconsistencies or conflicts exist.
3. The Owner will issue its own purchase orders directly to a vendor. The Owner's Purchase Order shall contain or be accompanied by the Owner's exemption certificate and must include the Owner's name, address and exemption number with issue and expiration date shown. The materials shall be purchased from the vendors and suppliers selected by the Construction Manager or subcontractor for prices negotiated by the Construction Manager or subcontractor, as applicable. The Construction Manager will provide all the necessary information for preparation of the purchase orders by the Owner and will coordinate the purchase of the materials in a timely manner so as to not negatively impact the performance of the construction activity of the Project.
4. The subcontract amount shall be reduced by the net, undiscounted amount of these purchase orders, plus all sales taxes. Issuance of the purchase orders by the Owner shall not relieve the subcontractor or the Construction Manager of any of their responsibilities regarding material purchases, or installation, with the exception of the payments for the material so purchased. The Construction Manager and the subcontractor shall remain, with respect to materials, supplies and equipment, fully responsible for coordination, correct quantities ordered, submittals, protection, storage, scheduling, shipping, security, expediting, receiving, installation, cleaning and the management of all applicable warranties.
5. As Owner Purchased Materials are delivered to the jobsite, the Construction Manager, as Owner's representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the Owner or Construction Manager may require. The Construction Manager, as Owner's representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The vendor will then forward the invoice to the Owner through the Construction Manager for payment. The invoice shall be thereupon furnished to the Owner for processing and payment in the same manner that all other Owner invoices are processed. The Owner shall have the right to

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assign Owner personnel to verify and audit the accuracy of all Direct Purchase documents.

6. Notwithstanding the transfer of Owner Purchased Materials by the Owner to the Construction Manager's possession, the Owner shall retain title to any and all Owner Purchased Materials.
7. The Owner shall purchase and maintain insurance which shall be sufficient to protect against any loss of or damage to Owner purchased equipment, materials or supplies. Such insurance shall cover the value of any Owner Purchased Materials not yet incorporated into the Project from the time the Owner first takes title.
8. The material supplier may be required to provide a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the Owner and the Construction Manager. If a supply bond is required, the cost of the bond will be added to the amount of the Purchase Order. The premium cost for this supply bond shall be included in the bid price. Verifying that a designated material supplier can furnish a supply bond, if required, will be the responsibility of the Construction Manager. Owner reserves the right to waive the requirement of providing a supply bond at the discretion of Owner.
9. If the State of Florida assesses any sales tax penalties and/or interest against the Construction Manager or any of its subcontractors or material suppliers relating to the direct acquisition of materials and/or equipment by Owner as authorized by this paragraph, such taxes, penalties, interest and/or any legal and administrative fees expended by the Construction Manager as a direct result of any action or assessment made by the State of Florida, shall be reimbursed by Owner to the Construction Manager in a prompt and reasonable manner and shall not be considered a Project Cost.

18.2 Sales Tax Exempt Purchasing Procedures for Public Projects:

1. The Construction Manager has included Florida sales tax and other applicable taxes in its bid for material, supplies and equipment. The Owner, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in any subcontractor's bid and/or contract.
2. Any equipment, materials or supplies directly purchased by the Owner that are included in the Construction Manager's contract or any subcontract shall be referred to as Owner Purchased Materials and the responsibilities of both the Owner and the subcontractor relating to such Owner Purchased Materials shall be governed by these procedures.
3. Material suppliers shall be selected by the Construction Manager or subcontractor, as applicable.

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4. Owner purchasing of construction materials, if selected, will be administered on a deductive Change Order basis and the contract amount shall be reduced by the net undiscounted amount of the purchase orders issued by the Owner, plus all sales tax included.
5. The Construction Manager shall provide a list of all intended suppliers, vendors and materialmen for consideration as Owner Purchased materials with a description of the materials to be supplied, estimated quantities and prices. This information shall be submitted to the Owner as soon as practicable.
6. The Construction Manager or subcontractors, as applicable, shall prepare a purchase order requisition form in a form acceptable to the Owner and the Construction Manager, to specifically identify the materials, which Owner has, at its sole option, elected to purchase directly. The purchase order requisition form shall include:
 - A. the name, address, telephone number and contact person for the material supplier;
 - B. manufacturer or brand, model or specification number of the item;
 - C. estimated quantity needed;
 - D. the price quoted by the supplier for the materials identified therein;
 - E. any sales tax associated with such quote; and
 - F. delivery dates
7. Construction Manager or subcontractor shall include reference to any terms and conditions, which have been negotiated with the vendors, such as payment terms, warranties, retainage and the like. The purchase order requisition forms are to be submitted to the Owner's Representative no less than seven (7) days prior to the need for ordering such Owner Purchased Materials, in order to provide sufficient time for Owner review and approval and to assure that such directly purchased materials may be directly purchased by Owner and delivered to the Project site without any delay to the Project.
8. After receipt of the purchase order requisition form, Owner shall prepare the Purchase Order for equipment, materials or supplies which the Owner chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Construction Manager or subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, the Construction Manager shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. The Owner's

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Purchase Orders shall be accompanied by the Owner's exemption certificate and must include the Owner's name, address, and exemption number with issue and expiration date shown.

9. In conjunction with the execution of the Purchase Orders, by the suppliers, one or more deductive Change Orders shall be issued, referencing the full value of all Owner Purchased Materials to be provided by each supplier from whom the Owner elected to purchase material directly, plus all sales tax savings associated with such materials in the Construction Manager's price or subcontractor's bid.
10. Construction Manager shall be fully responsible for all matters relating to the receipt of materials furnished by the Owner in accordance with these procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by the Owner. The Construction Manager shall coordinate delivery schedules, sequence of delivery, loading orientation and other arrangements normally required for the particular materials furnished. The Construction Manager shall provide all services required for the unloading, handling and storage of materials through installation. The Construction Manager agrees to indemnify and hold harmless the Owner from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of the Construction Manager.
11. As Owner Purchased Materials are delivered to the jobsite, the Construction Manager, as Owner's representative, shall visually inspect all shipments from the suppliers and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the purchase order, together with such additional information as the Owner or Construction Manager may require. The Construction Manager, as Owner's representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The vendor will then forward the invoice to the Owner through the Construction Manager for payment. The invoice shall be thereupon furnished to the Owner for processing and payment in the manner all other Owner invoices are processed. The Owner shall have the right to assign Owner personnel to verify and audit the accuracy of all Direct Purchase documents.
12. The Construction Manager shall ensure that Owner Purchased Materials conform to the Specifications, and determine prior to incorporation into the work if such materials are patently defective and whether such materials are identical to the materials ordered and match the description on the bill of lading. If the Construction Manager discovers defective or nonconformity in the Owner Purchased Material, upon such visual inspection, the Construction Manager shall not utilize such

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nonconforming or defective materials in the work, shall promptly take action to remedy the defect or nonconformance so as not to delay the Project and shall promptly notify the vendor of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Construction Manager shall notify the Owner of such occurrence. If the Construction Manager fails to perform such inspection and otherwise incorporates defective or nonconforming Owner Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, the Construction Manager shall be responsible for all damages to the Owner resulting from the incorporation of such materials into the Project, including liquidated or delay damages.

13. The Construction Manager shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession. The Construction Manager shall account monthly to the Owner for any Owner Purchased Materials delivered into the Construction Manager's possession, including portions of all such materials, which have been incorporated into the work.
14. The Construction Manager shall be responsible for obtaining and managing all warranties and guarantees for all materials and products. All repairs, maintenance or damage repair calls shall be handled by the Construction Manager for resolution with the appropriate supplier or vendor.
15. Notwithstanding the transfer of Owner Purchased Materials by the Owner to the Construction Manager's possession, the Owner shall retain title to any and all Owner Purchased Materials.
16. The transfer of possession of Owner Purchased Materials from the Owner to the Construction Manager shall constitute a bailment for mutual benefit of the Owner and the Construction Manager. The Owner shall be considered the bailor and the Construction Manager the bailee of the Owner Purchased Materials. Owner Purchased Materials shall be considered returned to the Owner for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the project. The Construction Manager shall have the duty to safeguard, store and protect all Owner Purchased Materials.
17. The Owner shall purchase and maintain insurance which shall be sufficient to protect against any loss of or damage to Owner Purchased equipment, materials or supplies. Such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project from the time the Owner first takes title.
18. The Owner shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, Owner Purchased Materials.

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19. On a monthly basis, the Construction Manager shall be required to review invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site during that month and either concur or object to the Owner's issuance of payment to the suppliers, based upon the Construction Manager's records of materials delivered to the site and any defects in such materials.
20. In order to arrange for the prompt payment to the supplier, the Construction Manager shall provide the Owner with a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items and such other documentation as may be reasonably required by the Owner. Upon receipt and verification of the appropriate documentation, the Owner shall prepare a check drawn to the supplier based upon the receipt of data provided. The check will be released, delivered and remitted directly to the supplier. The Construction Manager agrees to assist the Owner to immediately obtain partial or final release of lien waivers as appropriate.
21. At the end of the Project, any refund for surplus materials returned to suppliers plus applicable sales tax savings amounts shall be credited with an additive Change Order to the applicable subcontractor agreement with the Construction Manager. Salvage materials shall be the property of the Owner and stored or removed from the site by the Construction Manager at the Owner's direction.

ARTICLE 18 MISCELLANEOUS

18.1 Harmony:

1. The Construction Manager is advised and hereby agrees that it will exert every reasonable and diligent effort to assure that all labor employed by the Construction Manager and its Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project.
2. The Construction Manager further agrees that the above provision will be included in all contracts with the subcontractors; however, said provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

18.2 Dispute Resolution:

1. All claims, disputes and other matters in question, hereinafter referred to as a "Controversy", between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be initially submitted to mediation if mutually agreeable in accordance with the Construction Mediation Rules of the

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American Arbitration Association ("AAA") or any other mutually agreeable mediation firm.

2. Should either the Owner or the Construction Manager feel it necessary and appropriate to take any legal action to enforce any of the terms or conditions of this Agreement, then each party shall be responsible for its own attorney's fees and costs associated with such litigation.

18.3 Construction Manager's Project Records:

The Construction Manager's Project records shall be maintained for the minimum period required by state and federal law, and shall be made available to the Owner or its authorized representative at mutually convenient times.

18.4 Consequential Damages:

The parties mutually waive all claims for consequential damages, except to the extent paid for by insurance maintained for this project.

18.5 Public Records:

1. Pursuant to Florida Statutes, Section 119.0701:

IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S/OWNER'S CUSTODIAN OF PUBLIC RECORDS:

CITY CLERK: GWEN JOHNS
510 NORTH BAKER STREET
MOUNT DORA, FL 32757
(352) 735-7126
JOHNSG@CITYOFMOUNTDORA.COM

2. Construction Manager agrees to comply with public records laws, specifically to:
 - A. Keep and maintain public records required by the City/Owner to perform the services set forth herein.
 - B. Upon request from the City's/Owner's custodian of public records, provide the City/Owner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes, Chapter 119, or as otherwise provided by law.
 - C. Ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as

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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 City/Owner.

- D. Upon completion of the contract, transfer, at no cost to the City/Owner, all public records in possession of the Construction Manager or keep and maintain public records required by the City/Owner to perform the services set forth herein. If the Construction Manager transfers all public records to the City/Owner 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 City/Owner, upon request from the City's/Owner's custodian of public records, in a format that is compatible with the information technology systems of the City/Owner.

18.6 Severability:

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

18.7 Waiver:

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but same shall remain in full force and effect.

18.8 Notice:

The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the Owner and the Construction Manager. All notices required and/or made pursuant to this Agreement to be given to the Owner and the Construction Manager shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

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Owner: City of Mount Dora
Attention: City Manager
510 N. Baker Street
Mount Dora, Florida 32757

with copy to: City Attorney
Bell & Roper, P.A.
2707 E. Jefferson Street
Orlando, Florida 32803

Construction Manager: Faden Builders, Inc.
1194 Camp Avenue
Mount Dora Florida 32757

18.9 Modification:

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

18.10 Headings:

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

18.11 Joint Authorship:

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

18.12 Equal Opportunity Employer:

The Construction Manager is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The Construction Manager will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws. During the performance of this contract, the Construction Manager agrees as follows:

1. The Construction Manager will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin. The Construction Manager will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation,

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gender identity or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Construction Manager agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The Construction Manager will, in all solicitations or advertisements for employees placed by or on behalf of the Construction Manager, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.
3. The Construction Manager will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by the employer or is consistent with the contractor's legal duty to furnish information.
4. The Construction Manager will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Construction Manager's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Construction Manager will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
6. The Construction Manager will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
7. In the event of the Construction Manager's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules,

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regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Construction Manager may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

8. The Construction Manager will include the provisions of paragraphs (1) through and including this paragraph (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Construction Manager will take such action with respect to any subcontract or purchase order as necessary.

18.13 Compliance with the Davis-Bacon Act:

1. To be determined at GMP, all transactions regarding this Agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Construction Manager shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
2. The Construction Manager is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

18.14 Compliance with the Copeland "Anti-Kickback" Act:

1. The Construction Manager shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. The Construction Manager shall ensure that any subcontracts contain the above clause and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors include these clauses in any lower tier subcontracts. The Construction Manager shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all such contract clauses.
3. A breach of the contract clauses above may be grounds for termination of the Agreement.

ATTACHMENT #1

18.15 Clean Air Act:

1. The Construction Manager agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Construction Manager agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Construction Manager agrees to include these requirements in each subcontract exceeding \$150,000.00, financed in whole or in part with Federal assistance provided by FEMA.

18.16 Applicable Licensing and Compliance with all Laws:

The Construction Manager, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein. The Construction Manager, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county and municipal governments, as well as their respective departments, commissions, boards and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement, including any required processes, procedures or actions necessary to assist the Owner with reimbursement or enable the Owner to seek reimbursement from FEMA if the need arises. Notwithstanding any language herein to the contrary, in the event that any laws, ordinances, judicial decisions, orders, or regulations of the federal, state, county, or municipal governments change after execution of this Agreement, Construction Manager shall be entitled to an equitable adjustment in time as applicable and price to the extent the Construction Manager's direct costs, not including labor, are affected. Any such adjustment will be determined at the time of such an occurrence and there shall only be a construction phase fee on this item if it exceeds two percent (2%) for each separate GMP.

18.17 Use of City Logo, Name, Seal, Flag and/or City Letterhead:

The Construction Manager may only use the City of Mount Dora's name, logo seal and/or flag with the express written permission of the City and consistent with any City policy related to use of the same. In addition, the Construction Manager shall not use the City's Letterhead for issuing any correspondence, for any purpose, without the express written consent of the Owner.

ATTACHMENT #1

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the 7 day of April, 2020.

CITY OF MOUNT DORA

COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF MOUNT DORA

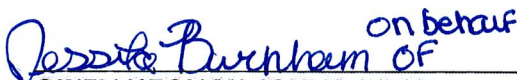
NORTHEAST COMMUNITY
REDEVELOPMENT AGENCY OF THE CITY
OF MOUNT DORA

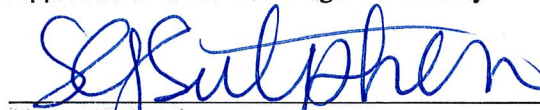


CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

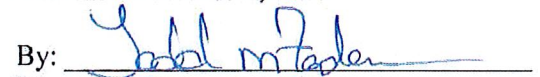
ATTEST:

For the use and reliance of the City of Mount Dora, the CRA of the City of Mount Dora and the Northeast CRA of the City of Mount Dora only. Approved as to form and legal sufficiency.


GWEN KEOUGH-JOHNS, MMC
CITY CLERK


Sherry G. Sutphen
City Attorney

FADEN BUILDERS, INC.

By: 
Print: Todd M. Faden
Title: PRESIDENT

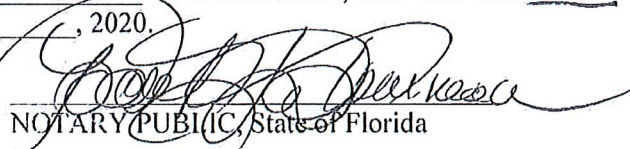
STATE OF FLORIDA
COUNTY OF Lake

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization of Todd M. Faden, the President of Faden Builders, Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Construction Manager, who is personally known to me or who produced as identification, and who did/did not take an oath this 03 day of April, 2020.

(stamp)



JOAN D. LETOURNEAU
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG224884
Expires 6/11/2022


NOTARY PUBLIC, State of Florida

ATTACHMENT #1

EXHIBIT "A"

CITY OF MOUNT DORA/CRA/Northeast CRA TASK AUTHORIZATION

In accordance with the terms and conditions of the Agreement between _____ (Construction Manager) and the City of Mount Dora/CRA/Northeast CRA, dated _____, the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors attached hereto.

City Project Manager:

Construction Manager Contact:

Project Name:

Project Number:

NOTE: THE CONTRACTOR MAY NOT BEGIN WORK UNTIL THIS FULLY SIGNED TASK AUTHORIZATION IS DELIVERD TO THE CONTSTRUCTION MANAGER.

SUMMARY OF WORK TO BE COMPLETED	
<u>Each Task Authorization package shall include:</u> Exhibit A – Scope of Work Exhibit B – Price/GMP Breakdown Exhibit C – Basic Schedule Exhibit D – Construction Team Exhibit E – Construction Manager's Staff Exhibit F – Sub-Contractors	
Recommended By: Print: _____ Date: _____ Signature: _____	
Reviewed By (if applicable): Print: _____ Date: _____ Signature: _____	
CONTRACTOR ACCEPTANCE	CITY APPROVAL
Print Name:	Print Name:
Title:	Title:
Signature:	Signature:
Date:	Date:

ATTACHMENT #1

EXHIBIT "B" CITY OF MOUNT DORA/CRA/Northeast CRA AMENDMENT TO TASK AUTHORIZATION

In accordance with the terms and conditions of the Agreement between _____ (Construction Manager) and the City of Mount Dora, dated _____, and the Task Authorization dated _____ (Original Task Authorization), the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors set forth herein. To the extent of any conflict between this Amendment and the Original Task Authorization, this Amendment shall prevail.

Amendment Number:

City Project Manager:

Construction Manager Contact:

Project Name:

Project Number:

NOTE: THE CONTRACTOR MAY NOT BEGIN WORK UNTIL THIS FULLY SIGNED AMENDMENT TO TASK AUTHORIZATION IS DELIVERED TO THE CONSTRUCTION MANAGER.

SUMMARY OF WORK TO BE COMPLETED	
<u>Each Task Authorization package shall include:</u> Exhibit A – Scope of Work Exhibit B – Price/GMP Breakdown Exhibit C – Basic Schedule Exhibit D – Construction Team Exhibit E – Construction Manager's Staff Exhibit F – Sub-Contractors	
Recommended By: Print: _____ Date: _____ Signature: _____	
Reviewed By (if applicable): Print: _____ Date: _____ Signature: _____	
CONTRACTOR ACCEPTANCE	CITY APPROVAL
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Signature: _____	Signature: _____
Date: _____	Date: _____

ATTACHMENT #1

EXHIBIT "C" CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT NAME:
PROJECT ADDRESS:
PROJECT NUMBER:
CONTRACT DATE:
CONSTRUCTION MANAGER:

TO OWNER:

Name
Address

TO CONSTRUCTION MANAGER:

Name
Address

Copy to:

___ Architect
___ Engineer
___ Field
___ Other

Project or portion of Project Designated for Partial Occupancy or Use:

The work performed on the Project under the Agreement has been reviewed and found, the Architect's best knowledge, information and belief to be substantially complete. Substantial Completion is the stage in the progress of the work when the work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the work for its intended use. The date of substantial completion of the Project or portion designated above is the date of issuance established by this Certificate of Substantial Completion, which is also the date of commencement of applicable warranties required by the Contract Documents as stated below:

Architect

By: _____

Date of Substantial Completion: _____

Print: _____

(Warranty Date of Commencement)

A Punch List of items to be completed or corrected is attached hereto. The failure to include any items on such Punch List does not alter the responsibility of the Construction Manager to complete all work in accordance with the Contract Documents. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment.

Cost Estimate of Work that is incomplete or defective: _____

The Construction Manager will complete or correct the work on the Punch List within ____ days from the above date of Substantial Completion.

Construction Manager

By: _____

Date: _____

Print: _____

The Owner hereby accepts the work or designated portions as substantially complete and will assume full possession at _____ am/pm on _____, 20__.

Owner

By: _____

Date: _____

Print: _____

The responsibilities of the Owner and Construction Manager for security, maintenance, utilities, damage and insurance are as follows:

ATTACHMENT #1

EXHIBIT "D" CERTIFICATE OF FINAL COMPLETION

PROJECT NAME:
PROJECT ADDRESS:
PROJECT NUMBER:
CONTRACT DATE:
CONSTRUCTION MANAGER:
SUBSTANTIAL COMPLETION DATE:
FINAL PUNCHLIST INSPECTION DATE:

The Construction Manager hereby certifies that the work and all other requirements have been completed in accordance with the Contract Documents, including, but not limited to:

___ completion of all discrepancies (Punchlist Items) noted at the time of Substantial Completion
___ submission of "as-built" plans and specifications, shop drawings, and other record documents
___ completion of all Owner training – submission of all contractually required stock and spare parts
___ submission of all final Operation & Maintenance documents and other closeout deliverables
___ submission of consent of Builder's surety
___ submission and approval of all remaining change order proposals, claims, and applications for payment
___ payment of all costs incurred for equipment, material, labor and services against the Project

The Construction Manager further certifies that:

___ no liens have been attached against the Project
___ no suits are pending by reason of work on the Project under the Contract for Construction
___ all Workers' compensation claims are covered by Workers' Compensation Insurance as required by law
___ all insurance required of the Construction Manager beyond final payment, if any, is in effect and will not be cancelled or allowed to be expired without notice to the Owner
___ all public liability claims are adequately covered by insurance and that the Construction Manager shall save, protect, defend, indemnify and hold the Owner harmless from and against any and all claims which arise as a direct or indirect result of any transaction, event, occurrence, or omission related to performance of the work on the Project contemplated under said Contract for Construction.

Upon execution below, this Project will be considered complete. This consideration does not relieve the Construction Manager from its post-construction responsibilities, including correction of discrepancies noted during the first year after Substantial Completion, warranty issues, latent defects, and other requirements of the Contract or under Florida law.

Construction Manager

By: _____

Date: _____

Print: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 201_, by _____, as _____ of Evergreen Construction Group of Florida, LLC, who is authorized to bind Evergreen Construction Group of Florida, LLC, and who is personally known to me OR has produced _____ as identification.

(stamp)

NOTARY PUBLIC, State of Florida

Recommend By:
Architect

By: _____

Date: _____

Print: _____

Accepted By:
Owner

By: _____

Date: _____

Print: _____

ATTACHMENT #1

EXHIBIT “E” Partial Pay Request Form

Application for Payment ATTACHMENT #1

To Owner: _____	Contractor: _____
Attn. Owner's Rep: _____	Submitted By: _____
Address: _____	Street Address: _____
City/State/Zip: _____	City/State/Zip: _____

Project/ Contract Description: _____	_____
Project Reference No: _____	Contract No: _____

Billing No.: _____	Select One: Progress _____ or Final _____
Period Covered: _____	Date Submitted: _____

FOR OWNER'S USE ONLY			\$ AMOUNT
Company Code:	Cost Center:	WBS:	
Business Area:	Account:	WBS:	
Profit Center:	Vendor No:	WBS:	

Description of Work	Scheduled Value	Completed This Month	%	Previously Completed	%	Completed To Date	%
	-	0.00	0%	0.00	100%	0.00	100%
	-	0.00	0%	0.00	100%	0.00	100%
	-	0.00	0%	0.00	0%	0.00	0%
	-	0.00	0%	0.00	0%	0.00	0%
	-	0.00	0%	0.00	0%	0.00	0%
	-	0.00	0%	0.00	0%	0.00	0%
		0.00	0%	0.00	0%	0.00	0%
		0.00	0%	0.00	0%	0.00	0%
		0.00	0%	0.00	0%	0.00	0%
TOTALS w/SALES TAX	\$0.00	0.00		0.00		0.00	

Required Signatures:	
Contractor Signature	Date
Owner's Representative	Date
Field Rep	Date
Project Manager	Date
Finance Representative	Date
Program Manager	Date
Finance Manager	Date
Director	Date

Contractor:	Accounting:	Owner:
\$0.00	Contract Total	0.00
	Allowance for Material	0.00
\$0.00	Sub Total	0.00
\$0.00	Less Retainage	0.00
\$0.00	Total Net	0.00
	Less Previous Payment	0.00
	Net Payment This Bill	0.00
	Total Paid to Date	0.00
	Contract Balance	0.00
Required Signatures: (continued)		
Vice President		Date
Sr. Vice President		Date
Executive Vice President		Date

Application for Payment
ATTACHMENT #1

To Owner: _____	Contractor: <u>Faden Builders, Inc.</u>
Attn. Owner's Rep: _____	Submitted By: <u>Todd M. Faden</u>
Address: _____	Street Address: <u>1194 Camp Avenue</u>
City/State/Zip: _____	City/State/Zip: <u>Mount Dora, FL 32757</u>

Project/ Contract Description:	
Project Reference No:	Contract No:

Billing No.:	Select One: Progress ☐ or Final ☐
Period Covered:	Date Submitted:

FOR OWNER'S USE ONLY			\$ AMOUNT
Company Code:	Cost Center:	WBS:	
Business Area:	Account:	WBS:	
Profit Center:	Vendor No:	WBS:	

Description of Work	Scheduled Value	Completed This Month	%		Previously Completed	%	Completed To Date	%
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
	\$0.00	0.00			0.00		0.00	
TOTALS/SALES TAX	\$0.00	0.00			0.00		0.00	

Required Signatures:	
Contractor Signature _____	Date <u>1/0/00</u>
Owner's Representative _____	Date _____
Field Rep _____	Date _____
Project Manager _____	Date _____
Finance Representative _____	Date _____
Program Manager _____	Date _____
Finance Manager _____	Date _____
Director _____	Date _____

Contractor:		Accounting:	Owner:
		Contract Total	0.00
		Allowance for Material	0.00
		Sub Total	0.00
		Less Retainage	0.00
		Total Net	0.00
		Less Previous Payment	0.00
		Net Payment This Bill	0.00
		Total Paid to Date	0.00
		Contract Balance	0.00
Required Signatures: (continued)			
Vice President _____		Date _____	
Sr. Vice President _____		Date _____	
Executive Vice President _____		Date _____	

ATTACHMENT #1

Exhibit “C”

Agreement with Wharton-Smith, Inc.
for construction manager at risk services on an as-needed basis
for Citywide projects which are less than Two Million Dollars
RFQ-19-GS-018

ATTACHMENT #1

AGREEMENT BETWEEN OWNER AND CONSTRUCTION MANAGER

THIS AGREEMENT made by and between the City of Mount Dora, a municipal corporation of the State of Florida, 510 N. Baker Street, Mount Dora, Florida 32757, the Community Redevelopment Agency of the City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757, the Northeast Community Redevelopment Agency of the City of Mount Dora, 510 N. Baker Street, Mount Dora, Florida 32757, hereinafter singly and collectively referred to as "Owner" and Wharton-Smith, Inc, 750 Monroe Road, Sanford, Florida 32771 hereinafter "Construction Manager".

ARTICLE I THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT

The Construction Manager accepts the relationship of trust and confidence established between it and the Owner by this Agreement. The Construction Manager covenants with the Owner to furnish its best skill and judgment and to cooperate with the Architect-Engineer in furthering the interests of the Owner. The Construction Manager agrees to furnish efficient business administration and superintendence and use its best efforts to complete the various City project(s) in the soundest and most expeditious and economical manner, consistent with the interests of the Owner.

1.1 The Construction Team:

The Construction Manager, the Owner and the Architect-Engineer, called the "Construction Team", shall work jointly during design and through final construction completion and shall be available thereafter should additional services be required related to the Project. The Architect and the Construction Manager shall communicate through the Owner, except as may otherwise be provided in this Agreement or when direct communications have been specifically authorized by the Owner. The Construction Manager shall copy the Owner on all correspondence sent to or received from the Architect or any of its consultants of which the Owner was not copied.

The specific representatives of the Construction Team shall be established at the time of approval of each Task Authorization.

1.2 Extent of Agreement:

This Agreement for pre-construction and construction management services for the Project, between the Owner and the Construction Manager supersedes any prior negotiations, representations or agreements. The City will from time to time issue a Task Authorization to the Construction Manager, in the form attached hereto as **Exhibit "A"**, for individual City projects which may include either pre-construction and construction management services or construction management services only. If pre-construction services are required as part of a Project, an initial Task Authorization will be issued by the City Manager if the cost of the pre-construction services is within the City Manager's purchasing authority. Thereafter, once the drawings, specifications and other descriptive

ATTACHMENT #1

documents for the Project are complete, an Amendment to Task Authorization in the form attached hereto as **Exhibit "B"**, will be issued following approval by the City Council of the guaranteed maximum price (GMP) for the specific construction management work to be completed for the Project. In the event pre-construction services exceed the City Manager's purchasing authority, a Task Authorization for the pre-construction services will be issued on the appropriate form, following approval of the same by the City Council. Thereafter, once the drawings, specifications and other descriptive documents for the Project are complete, an Amendment to Task Authorization, which shall include the GMP for the specific construction management work to be completed for the Project, shall be issued on the appropriate form following approval by the City Council. In the event pre-construction services are not required for a Project, once the drawings, specifications and the other descriptive documents for a Project have been approved, a Task Authorization will be issued following approval of the GMP for the Project by the City Council. To expedite the preparation of the GMP Amendment by the Owner, the Construction Manager shall obtain two (2) sets of dated drawings, specifications and other documents upon which the GMP is based from the Architect-Engineer via the Owner. The Construction Manager shall acknowledge on the face of each set of drawings, that it is the set upon which the GMP is based. Thereafter one set of the documents shall be sent to the Owner along with the GMP proposal. This Agreement shall not be superseded by any provisions/revisions of the documents for construction and may be amended only by written instrument signed by both Owner and Construction Manager.

- 1.3 **Definitions:** The following definitions shall be applicable to this Agreement. Any words which are not set forth below but are found capitalized throughout this Agreement shall have the meanings established in the various Articles and/or Sections of this Agreement:

Architect-Engineer - To be determined by the Owner as applicable for each separate Project for which a Task Authorization is issued.

Construction Documents - This Contract, the Drawings, Specifications and related Construction Documents or any other documents incorporated herein by reference.

Construction Manager – Wharton-Smith, Inc.

Estimate - The Construction Manager's latest estimate of probable project construction costs

Final Completion - The following items have been completed or satisfied:

1. Construction of the Project is totally complete, including all work on the Contract Documents and certified as such by the Owner and Architect.
2. The Project is suitable for full use and occupancy as determined by the Owner and Architect.
3. All Punch List items have been completed or otherwise disposed of or accounted for to the Owner's satisfaction and approval.

ATTACHMENT #1

4. A Final Certificate of Occupancy and all other permits and approvals required have been legally and validly issued.
5. Final executed Releases of Lien have been delivered to the Owner by Construction Manager.

General Conditions - Those items that are not specific to any trade and are required for the construction of the Project. Examples of General Conditions items include daily cleanup and safety rails.

Owner - City of Mount Dora, a municipal corporation of the State of Florida, on behalf of itself, the Community Redevelopment Agency of the City of Mount Dora (CRA) pursuant to Resolution 2020-24 (CRA) and the Northeast Community Redevelopment Agency of the City of Mount Dora (Northeast CRA) pursuant to Resolution 2020-24 (Northeast CRA).

Owner's Representative - The Owner's Representative is its Construction Project Manager, who is Chet Cramer, or such other individual designated, in writing, by the City Manager.

Project - The Project shall mean the total work to be performed under each Task Authorization, or Amendment thereto, issued pursuant to this Agreement. The Project may consist of pre-construction planning, design and permitting services, as well as construction and code inspection services for various construction projects which do not exceed Two Million Dollars in total construction costs.

Punch List - List of items of work to be completed and deficiencies to be corrected, which items shall not affect the attainment of Substantial Completion. Such items shall be complete or otherwise disposed of prior to final acceptance/completion.

Substantial Completion Date - The date, certified by the Architect, that the Project, or designated portion thereof, is sufficiently complete, in accordance with the Construction Documents and a Certificate of Occupancy issued, so that the Owner can reasonably occupy or utilize the Project, or designated portion thereof, for its intended use. Additionally, complete all items referred to as necessary for Substantial Completion.

Task Authorization or Amendment to Task Authorization - The document issued to the Construction Manager which sets forth the service expectations, schedules, pricing/GMP, construction team and subcontractors for a specified Project.

1.4 Owner's Construction Budget:

Owner's funds budgeted and requested for construction of the Project: The Owner's Construction Budget for each Project is Two Million Dollars or less, including all preconstruction services, Construction Manager fees, costs of the work and the Owner's and Construction Manager's construction and interface contingencies as defined in Articles

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8 and 9. This acknowledgment of the Owner's budgeted funds is not to be construed as the Construction Manager's Guaranteed Maximum Price. A Guaranteed Maximum Price will be offered by separate documentation as outlined in Article 7.

ARTICLE 2 CONSTRUCTION MANAGER'S SERVICES

The services which the Construction Manager shall provide include, but are not limited to, those described or specified herein. The services described or specified shall not be deemed to constitute a comprehensive specification having the effect of excluding services not specifically mentioned.

2.1 Project Management Information System (PMIS):

1. General:

- A. Commencing immediately after contract award, the Construction Manager shall implement and shall utilize throughout the life of this Contract all subsystems of the Project Management Information System hereinafter referred to as PMIS.
- B. The reports, documents, and data to be provided shall represent an accurate assessment of the current status of the Project and of the work remaining to be accomplished and it shall provide a sound basis for identifying variances and problems and for making management decisions. It shall be prepared and furnished to the Owner and the Architect-Engineer monthly.
- C. If requested by the Owner, the Construction Manager shall conduct a comprehensive workshop for participants designated by the Owner and additional seminars as required, to provide instruction. This workshop and the seminars shall facilitate each participant's and the Owner's representatives' use and understanding of PMIS; shall support, in-part, the function of organizing in concert with the Architect-Engineer for the design and construction of the Project; and shall establish, with the full concurrence of the Owner and the Architect-Engineer, procedures for accomplishing the management control aspect of the Project.
- D. The PMIS shall be described in terms of the following major subsystems:
 - 1. Narrative Reporting, on a monthly basis,
 - 2. Schedule Control, on a monthly basis,
 - 3. Cost Control, and estimating,
 - 4. Project Accounting,

ATTACHMENT #1

5. Accounting and Payment, and
 6. Action Reports.
2. Narrative Reporting Subsystem:
- A. The Construction Manager shall prepare written reports as described hereunder. No other PMIS narrative reports shall be required. All reports shall be in 8.5" X 11" format, unless directed otherwise by the Owner.
 - B. The Narrative Reporting Subsystem shall include the following reports:
 1. Monthly Executive Summary - which provides an overview of current issues and pending decisions, future developments and expected achievements, and any problems or delays, including code violations found by any permitting authority.
 2. Monthly Cost Narrative - describing the current construction cost estimate status of the Project.
 3. Monthly Scheduling Narrative - summarizing the current status of the overall project schedule. This report shall include an analysis of the various project schedules, a description of the critical path, and other analyses as necessary to compare planned performance with actual performance.
 4. Monthly Accounting Narrative - describing the current cost and payment status of the entire project. This report shall relate current encumbrances and expenditures to the budget allocations.
 5. Monthly Construction Progress Report - summarizing the work of the various subcontractors during the construction phase. This report shall include information from the weekly job site meetings, as applicable, such as general conditions, long lead supplies, current deliveries, safety and labor relations programs permits, construction problems and recommendations and plans for the succeeding month.
 6. Daily Construction Diary - during the construction phase describing events and conditions on the site.
 - C. The reports outlined above shall be bound with applicable computer reports and submitted monthly during design and construction phases and shall be current through the end of the preceding month. Copies shall be transmitted to the Owner and the Architect-Engineer and others as designated by the Owner's Representative with the monthly pay requisition. Additional

ATTACHMENT #1

copies of the report outlined above shall be bound separately and distributed monthly as directed by the Owner's Representative.

- D. The report outlined in Article 2.1(2)(B)(6) above shall be maintained at the site available to the Owner and Architect-Engineer. A bound copy of the complete Daily Construction Diary shall be submitted to the Owner at the conclusion of the Project

3. Scheduled Control Subsystem:

- A. Master Project Schedule - Within thirty (30) days of award of this Agreement, the Construction Manager shall submit, to the Owner for approval, a master project schedule covering the planning and design approvals, construction and Owner occupancy of the Project. This schedule shall serve as the framework for the subsequent development of all detailed schedules. The master project schedule shall be produced and updated monthly throughout the project. Revisions, activity additions, activity deletions and/or logic changes to the Master Project Schedule, or any other schedule previously approved by the Owner, shall not be made without the Owner's approval.
- B. Within thirty (30) days after the date of the Owner's issuance of a Notice to Proceed with construction, the Construction Manager shall prepare and submit for approval, to the Owner's Representative, a construction schedule in quadruplicate with sufficient detail to graphically depict the activities contemplated for completion of the Project and which shows the sequence that the Construction Manager proposes for each such activity to occur and the duration (dates of commencement and completion, respectively) of each such activity. The Owner shall determine whether the construction schedule developed and submitted by the Construction Manager meets the requirements stated herein and thereafter such determination shall be binding on the Construction Manager. Failure of the Construction Manager to develop and submit a construction schedule as set forth hereinabove shall be sufficient grounds for the Owner to find the Construction Manager in substantial default and certify that sufficient cause exists to terminate the contract or to withhold payment to the Construction Manager until a schedule acceptable to the Owner is submitted.
- C. During the period of time required to finally complete the Project, at the end of each such calendar month or at such earlier intervals as circumstances may require, the Construction Manager shall update the construction schedule to show the actual progress of the work performed and the occurrence of all events which have affected the progress of performance of the work already performed or will affect the progress of the performance of the work yet to be performed in contrast with the planned progress of performance of such work, as depicted on the original construction schedule

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and all updates thereto as reflected in the updated construction schedule last submitted. Each such update to the construction schedule shall be submitted to the Owner in duplicate. Failure of the Construction Manager to update, revise and submit the construction schedule as set forth herein shall be sufficient grounds for the Owner to find the Construction Manager in substantial default, and certify that sufficient cause exists to terminate the Contract or to withhold payment to the Construction Manager until a schedule or schedule update acceptable to the Owner is submitted. No revisions, activity additions, activity deletions or logic changes shall be made without the Owner's approval, which shall not be unreasonably withheld.

D. When required by the Owner, the Construction Manager shall prepare and incorporate into the schedule database, at the required intervals, the following schedules:

1. Subcontractor Construction Schedules - Upon the award of each sub-contract, the Construction Manager shall jointly, with the subcontractor, develop a schedule which is more detailed than the pre-bid schedule included in the specifications, taking into account the work schedule of the other subcontractors. The construction schedule shall include as many activities as necessary to make the schedule an effective tool for construction planning and for monitoring the performance of the subcontractor. The construction schedule shall also show pertinent activities for material purchase orders, shop drawing schedules and material delivery schedules.
2. Occupancy Schedule - The Construction Manager shall jointly develop with the Architect-Engineer and Owner a detailed plan, inclusive of punch lists, final inspections, maintenance training and turn-over procedures, to be used for ensuring accomplishment of a smooth and phased transition from construction to Owner occupancy. The Occupancy Schedule shall be produced and updated monthly from its inception through final Owner occupancy.

E. All schedules will be provided to the Owner in an electronic format acceptable to the Owner. The Construction Manager will provide the Owner with the appropriate software, if necessary, to read the data. The cost of providing the licenses and software shall be part of the cost of construction and included as part of Article 9, Direct Costs of the Project.

4. Budget Control Subsystem:

The operation of this subsystem shall provide sufficient timely data and detail to permit the Construction Team to control and adjust the Project requirements, needs, materials, equipment and systems by building and site elements so that construction

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will be completed at a cost which, together with all other Project costs, will not exceed the maximum total Project budget. Requirements of this subsystem include the following submissions at the following phases of the project:

Estimates - Prior to the start of pre-construction services, the requirement of the following estimates will be determined by the Owner:

- A. Completion of Schematic Documents.
- B. Completion of fifty percent (50%) Design Development Documents.
- C. Completion of one hundred percent (100%) Design Development Documents.
- D. One hundred percent (100%) GMP Estimate - When the Construction Documents are sufficiently complete enough to establish the GMP.

5. Project Accounting Subsystem:

The operation of this subsystem shall enable the Construction Team to monitor and control the funds available for the Project, cash flow, costs, change orders, payments and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced, amounts payable and to plan effectively. This subsystem will be produced and updated monthly and includes the following reports, which together will serve as a basic accounting tool and an audit trail. This report will also provide for accounting by building and site element.

- A. Cost Status Report - presenting the budget, estimate and base commitment for any given contract or budget line item. It shall show approved change orders for each contract which when added to the base commitment will become the total commitment. Pending change orders will also be shown to produce the total estimated probable cost to complete the work.
- B. Payment Status Report - showing the value in place, both current and cumulative, the amount invoiced (both current and cumulative), the amount retained, the amount payable (both current and cumulative) and the balance remaining. A summary of this report shall accompany each pay request.
- C. Detailed Status Report - showing the complete activity history of each item in the Project accounting structure. It shall include the budget, estimate and base commitment figures for each contract. It shall give the change order history including change order numbers, description, proposed and approved dates and proposed and approved dollar amounts. Pending or rejected change orders shall also be shown.
- D. Cash Flow Diagram - showing the projected accumulation of cash payments against the project. Cash flow projections shall be generated for anticipated monthly payments as well as cumulative payments.

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- E. Job Ledger - shall be maintained as necessary to supplement the operation of the Project accounting subsystem. The Job Ledger will be used to provide construction cost accountability for general conditions work, on-site reimbursable expenses and costs requiring accounting needs.

2.2 Project Manual:

When directed by the Owner, the Construction Manager shall provide the following:

1. Upon issuance of a Task Authorization, the Construction Manager shall develop a draft comprehensive Project Manual describing the services set forth in this Contract for Owner's approval, providing a plan for the control, direction, coordination and evaluation of work performed, including identification of key personnel, responsibilities of Construction Manager, responsibilities of Owner and responsibilities of the specified Architect-Engineer, work flow diagrams and strategy for bidding the work. The Project Manual shall be updated as necessary with the Owner's approval throughout the design, construction and Owner occupancy phases. Two copies of the Project Manual and any updates shall be submitted to the Owner and Architect-Engineer. In developing the Project Manual, the Construction Manager shall coordinate with the Owner and the Architect-Engineer.
2. Contents of Project Manual - The Project Manual shall describe in detail the procedures for executing the work and the organizations participating. The Project Manual shall include as a minimum the following sections:
 - A. Project Definition - The known characteristics of the project or sub-projects shall be described in general terms which will provide the participants a basic understanding of the project or sub-projects.
 - B. Project Goals - The schedule, budget, physical, technical and other objectives for the Project shall be defined.
 - C. Project Strategy - A narrative description of the Project delivery methods being utilized to accomplish the project goals shall be listed.
 - D. Project Work Plan - A matrix display of the program of work to be performed by the Construction Manager, the Architect-Engineer and the Owner during each phase of the Project.
 - E. Project Organization - A summary organization chart showing the interrelationships between the Owner, the Construction Manager and the Architect-Engineer, and other supporting organizations and permitting review agencies. Detailed charts shall be included, one each for the Construction Manager, the Architect Engineer and the Owner, showing the organizational elements participating in the Project.

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- F. Responsibility Performance Chart - A detailed matrix showing the specific responsibilities and interrelationships of the Owner, the Architect Engineer, and Construction Manager. The Responsibility Performance Chart shall indicate major responsibility, and minor responsibility, for each specific task required to deliver the project. The Construction Manager shall develop a similar chart for the personnel within his own organization who are assigned to the project, and also for the personnel of the Owner and the Architect-Engineer from data supplied by each.
- G. Flow Diagrams - Charts displaying the flow of information and the decisional process for the review and approval of shop drawings, submittals, progress and change orders.
- H. Written Procedures – Procedures for communications and coordination required between Construction Team members throughout the Project. Procedures shall cover such items as correspondence, minutes, reports, inspections, team meetings, technical reviews, design reviews and other necessary communications.

2.3 Design and Review and Recommendations:

The Construction Manager shall perform the services described in this Article. The services to be provided herein constitute the Pre-construction phase services. The parties acknowledge the Construction phase may commence before the Pre-construction phase is completed, and to a certain extent both phases may proceed concurrently.

- 1. Preliminary Evaluation - The Construction Manager shall provide a preliminary evaluation of the Owner's Project and Project budget requirements, each in terms of the other.
- 2. Consultation - The Construction Manager will jointly schedule and attend regular meetings with the Owner and Architect. The Construction Manager will consult with the Owner regarding site use and improvements, and the selection of materials, building systems and equipment. The Construction Manager will provide recommendations on construction feasibility; actions designated to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets, and possible economies.
- 3. Phased Construction - The Construction Manager shall make recommendations to the Owner regarding the phased issuance of Drawings and Specifications to facilitate phased construction of the Project, if such phased construction is appropriate for the Project, taking into consideration such factors as economies, time of performance, availability of labor and materials, and provisions for temporary facilities, if applicable.

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4. Review Reports - Within thirty (30) days after receiving the Construction Documents for each phase of the Project, the Construction Manager shall perform a specific review thereof, focused upon factors of a nature encompassed in Articles 2.3(1) and 2.3(2) above and on factors set out in Article 2.3(7) below. Promptly after completion of the review, the Construction Manager shall submit to the Owner, with copies to the Architect-Engineer, a written report covering suggestions or recommendations previously submitted, additional suggestions or recommendations as may be deemed appropriate, and all actions taken by the Architect-Engineer with respect to same, any comments deemed to be appropriate with respect to separating the work into separate contracts, alternative materials, and all comments called for under Article 2.3(7).

THE CONSTRUCTION MANAGER SHALL WARRANT, TO THE BEST OF THE CONSTRUCTION MANAGER'S KNOWLEDGE, WITHOUT ASSUMING ANY ARCHITECTURAL OR ENGINEERING RESPONSIBILITY, THAT THE PLANS AND SPECIFICATIONS ARE CONSISTENT, PRACTICAL, FEASIBLE AND CONSTRUCTIBLE. THE CONSTRUCTION MANAGER SHALL WARRANT THAT THE WORK DESCRIBED IN THE PLANS AND SPECIFICATIONS FOR THE VARIOUS BIDDING PACKAGES IS CONSTRUCTIBLE WITHIN THE SCHEDULED CONSTRUCTION TIME.

The recommendations and advice of the Construction Manager concerning design alternatives shall be subject to the review and approval of the Owner and Owner's professional consultants. Construction Manager shall not assume in anyway the responsibilities of the Architect, in particular, the responsibility of assuring that the drawings and specifications, which shall be identified for each Project prior to the time the GMP is determined, are in accordance with applicable laws, statutes, ordinances, Building Codes, Rules and Regulations; however, if the Construction Manager recognizes that portions of the Drawings and Specifications are inconsistent with applicable laws, statutes, ordinances, Building Codes, Rules and Regulations, the Construction Manager shall promptly notify the Architect and the Owner, in writing.

5. Long Lead Procurements - The Construction Manager shall review the design for the purpose of identifying long lead procurement items such as machinery, equipment, materials and supplies. When each item is identified, the Construction Manager shall notify the subcontractors, the Owner and the Architect-Engineer of the required procurement and schedule. Such information shall be included in the bid documents and made a part of all affected sub-contracts. The Construction Manager shall keep himself informed of the progress of the respective subcontractors or suppliers, manufacturing or fabricating such items and advise Owner and Architect-Engineer of any problems or prospective delay in delivery. The Construction Manager may recommend to the Owner a schedule for procurement of the long-lead time items, which will constitute part of the work, as required to meet the Project Schedule. If such long-lead time items are procured by the Owner, they shall be procured on terms and conditions acceptable to the

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Construction Manager. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, all contracts for such items shall be assigned by the Owner to the Construction Manager, who shall accept responsibility for such items as if procured by the Construction Manager. The Construction Manager shall assist in expediting the delivery of long-lead time items.

6. Separate Contracts Planning - Without assuming any design responsibilities, the Construction Manager shall review the design with the Architect-Engineer and make recommendations to the Owner with respect to dividing the work in such manner as will permit the Construction Manager to take bids and award separate construction sub-contracts on the current schedule while the design is being completed. He shall take into consideration such factors as natural and practical lines of severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, availability of labor and materials, community relations and any other factors pertinent to saving time and cost by overlapping design and construction that are authorized by the Owner.
7. Interfacing -
 - A. The Construction Manager shall take such measures as are appropriate to provide that all construction requirements will be covered in the separate subcontracts for procurement of long lead items, the separate construction subcontracts and the General Conditions items performed without duplication or overlap, sequenced to maintain completion of all work on schedule. Particular attention shall be given to provide that each bid package clearly identifies the work included in that particular separate subcontract, its schedule for start and completion and its relationship to other separate contractors.
 - B. Without assuming any design responsibilities of the Architect-Engineer, the Construction Manager shall include in the reports required under Article 2.3(4) comments on overlap with any other separate subcontracts, omissions, lack of correlation between drawings, and any other deficiencies noted, in order that the Owner and Architect-Engineer may arrange for necessary corrections.
8. Job-Site Facilities - The Construction Manager shall arrange for all job-site facilities necessary to enable the Construction Manager and the Owner's representatives and the Architect-Engineer to perform their respective duties in the management, inspection, and supervision of construction.

Tangible personal property otherwise referred to as job-site facilities, include but are not limited to such things as trailers, toilets, computers and any other equipment necessary to carry on the Project. The method of acquiring such job-site facilities, which are planned to become the property of the Owner at the conclusion of the

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Project, shall be evaluated based on cost over the life of the Project. Owning versus leasing shall be considered by the Construction Manager obtaining at least three (3) proposals for leasing and at least three (3) proposals for purchasing and then analyzing which is least expensive over the usage life of the item. The Construction Manager shall present his evaluation with recommendation to the Owner for approval.

When the Construction Manager wishes to supply job-site facilities from his own equipment pool, he shall first evaluate buy versus lease as discussed in the paragraph above. If leasing is found to be the least expensive approach, then he may lease such job-site facilities from his own equipment pool at a price not greater than the lowest of the three (3) lease proposals obtained.

For all such facilities purchased, which are to become the property of the Owner at the conclusion of the project, the Construction Manager shall maintain care and custody responsibilities of such facilities until the Project conclusion. The cost of such equipment shall be a Direct Cost of the Project, as defined in Article 9. At the conclusion of the Project, the Construction Manager shall provide the Owner with a complete inventory for each unit of equipment that has been purchased for the Owner. The inventory shall describe the equipment and identify the purchase price, serial number, model number, current location, and condition. Where said equipment has a title, said title shall be properly transferred to the Owner or to his designee.

The Construction Manager is responsible for proper care and maintenance of all equipment while in his control. At the time of transfer to the Owner, the Owner may refuse acceptance of the equipment if the Owner determines in its sole discretion that the equipment has not been properly cared for by the Construction Manager. In such event, the Construction Manager shall reimburse Owner for such item.

9. Weather Protection - The Construction Manager shall ascertain what temporary enclosures, if any, of building areas should be provided for and may be provided as a practical matter, in order to assure orderly progress of the work in periods when extreme weather conditions are likely to be experienced. The Construction Manager shall submit, to the Construction Team, recommendations as to needed requirements of this nature and as to the contract or contracts in which such weather protection requirements should be included. The Construction Manager is totally responsible for all weather protection necessary to ensure that all new construction and renovation projects are adequately protected from the normal inclement elements.
10. Market Analysis and Stimulation of Bidder Interest -
 - A. The Construction Manager shall monitor conditions in the construction market to identify factors that will or may affect costs and time for completing the Project; the Construction Manager shall make analysis as

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necessary to (1) determine and report on availability of labor, material, equipment, potential bidders, and possible impact of any shortages or surplus of labor or material, and (2) in light of such determinations, make recommendations to the Owner as may be appropriate with respect to long lead procurement, separation of construction into bid packages, sequencing of work, use of alternative materials, equipment or methods, other economics in design or construction, and other matters that will promote cost savings and completion within the scheduled time.

- B. The Construction Manager shall submit to the Owner a written "Construction Market Analysis and Prospective Bidders Report" setting out recommendations and providing information as to prospective bidders. As various bid packages are prepared for bidding, the Construction Manager shall submit to the Owner and the Architect-Engineer a list of potential bidders. The Construction Manager shall be responsible to stimulate bidder interest in the local market place and identify and encourage bidding competition.
- C. The Construction Manager shall carry out an active program of stimulating interest of qualified contractors in bidding on the work and of familiarizing those bidders with the requirements of this project.

2.4 Construction Phase:

- 1. Construction Manager's Staff - The Construction Manager shall maintain sufficient off-site support staff, and competent full time staff at the Project site authorized to act on behalf of the Construction Manager to coordinate, inspect and provide general direction of the work and progress of the subcontractors and the Construction Manager shall provide no less than those personnel during the respective phases of construction as are identified at the time the GMP is determined. The Construction Manager shall not change any of those persons named at the time the GMP is determined unless mutually agreed to by the Owner and Construction Manager. In such case, the Owner shall have the right to approve the qualifications of any replacement personnel. Such approval will not be unreasonably withheld.
- 2. Lines of Authority - The Construction Manager shall establish and maintain lines of authority for its personnel, and shall provide notice of the same to the Owner and all other affected parties such as the code inspectors of the Permitting Authority, the subcontractors, the Architect-Engineer and the Owner's representatives, in order to provide general direction of the work and progress of the various phases and subcontractors. The Owner and Architect-Engineer may attend meetings between the Construction Manager and his subcontractors; however, such attendance shall not diminish either the authority or responsibility of the Construction Manager to administer the subcontractors.

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3. Schedule and Project Manual Provisions - The Construction Manager shall provide subcontractors and the Owner, its representatives and the Architect-Engineer with copies of the Project Manual, a total number of copies not to exceed seven (7) hard copies and an electronic version in a format acceptable to the Owner, developed and updated as required by Article 2.2, expanded for the Construction Phase, employing the respective milestones, beginning and finishing dates, the respective responsibilities for performance and the relationships of the work with respect to subcontractors and suppliers. The Construction Manager shall also continue to provide current and up to date scheduling information, direction and coordination regarding milestones, and beginning and finishing dates. Furthermore, the Construction Manager shall be responsible for performance and the relationships of the Construction Manager's work to the work of its subcontractors and suppliers to enable the same to perform their respective tasks so that the development of construction progresses in a smooth and efficient manner in conformance with the overall project schedule. The schedule shall include all phases of the construction work, material supplies, long lease procurement, approval of shop drawings, change orders in progress, schedules for change orders, and performance testing requirements. The Construction Manager shall advise the Owner, its representatives and the Architect-Engineer of their required participation in any meetings or inspections, giving each at least one weeks-notice, unless such notice is made impossible by conditions beyond the control of the Construction Manager. The Construction Manager shall hold job-site meetings at least once each month with the Construction Team or more frequently as required by work progress, to review progress, discuss problems and solutions and to coordinate future work with all subcontractors.
4. Solicitation of Bids -
 - A. Without assuming responsibilities of the Architect-Engineer, the Construction Manager shall prepare invitations for bids, or requests for proposal when applicable, for all procurement of long lead items, materials and services, for Subcontractor contracts and for site utilities. Such invitations for bids shall be prepared in accordance with the following guidelines:

Those portions of the work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or by other appropriate agreements with the Construction Manager. The Construction Manager shall obtain bids from subcontractors, vendors, consultants and from suppliers of materials or equipment fabricated to a special design for the work. The Construction Manager shall strive to receive at least three (3) competitive bids per trade package. Should the nature of the trade package prohibit three (3) competitive bids, the Construction Manager shall notify the Owner in writing as to the reason and offer suggestions, if any, to create trade interest.

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- B. The Construction Manager shall be responsible for coordinating with the Architect-Engineer and preparing all information that is the responsibility of the Construction Manager for bidding of the separate bid packages.
 - C. As part of such preparation, the Construction Manager shall review the specifications and drawings prepared by the Architect-Engineer. Ambiguities, conflicts or lack of clarity of language, use of illegally restrictive requirements, and any other defects in the specifications or in the drawings noted by the Construction Manager shall be brought to the attention of the Owner and Architect-Engineer in written form.
 - D. The Construction Manager and the Owner's Representative shall mutually agree when and if to conduct a pre-bid conference with prospective bidders and the Architect-Engineer. In the event questions are raised which require an interpretation of the bidding documents or otherwise indicate a need for clarification or correction of the invitation, the Construction Manager shall transmit these to the Owner and the Architect-Engineer and upon receiving clarification or correction in writing shall prepare an addendum to the bidding document, and issue same to all of the prospective bidders.
 - E. The Construction Manager shall not enter into contracts without the Owner reviewing the proposed successful bidder. The Owner shall promptly, within three (3) business days, review all proposals and provide comments so as not to cause delay in the award of a contract. Owner's failure to respond within this time frame shall constitute acceptance of the proposed contract. Owner shall have the right to reject any award of subcontract providing such rejection is justifiable and with cause. Should the Owner reject a proposal and should the next bondable, qualified bidder that is acceptable to the Construction Manager, be greater than the GMP budget for that work item, the Owner shall issue a change order to the Construction Manager, increasing the GMP, for the amount of the difference between the proposed award and that which the Owner has requested.
5. Bonds - In accordance with the provisions of Florida Statutes, Section 255.05, the Construction Manager shall provide to the Owner, on forms furnished by the Owner, a one hundred percent (100%) Performance Bond and a one hundred percent (100%) Labor and Material Payment Bond each in an amount not less than the total construction cost as defined in Articles 7, 8 and 9. To be acceptable to the Owner, as Surety for Performance Bonds and Labor and Material Payment Bonds, a Surety Company shall comply with the following provisions:
- A. The Surety Company shall have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida.

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- B. The Surety Company shall have currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.
- C. The Surety Company shall be in full compliance with the provisions of the Florida Insurance Code.
- D. The Surety Company shall have at least twice the minimum surplus and capital required by the Florida Insurance Code at the time a bond is issued.
- E. The Surety Company shall have at least the following minimum ratings in the latest issue of Best's Key Rating Guide.

Contract Amount	Policy Holder's Rating	Required Financial Rating
\$500,000 to \$1,000,000	A	Class IV
\$1,000,000 to \$2,500,000	A	Class V
\$2,500 000 to \$5,000 000	A	Class VI
\$5,000,000 to \$10,000 000	A	Class VII
\$10,000,000 to \$25,000,000	A	Class VIII
\$25 000 000 to \$50,000,000	A	Class IX
\$50.000,000 to \$75,000,000	A	Class X

- 6. **Quality Control** - The Construction Manager shall develop and maintain a written program, acceptable to the Owner and Architect-Engineer, to assure quality control of the construction. He shall supervise the work of all subcontractors providing instructions to each when their work does not conform to the requirements of the plans and specifications and he shall continue to exert his influence and control over each subcontractor to ensure that corrections are made in a timely manner so as to not affect the efficient progress of the work. Should disagreement occur between the Construction Manager and Architect-Engineer over acceptability of work and conformance with the requirements of the specifications and plans, the Owner shall be the final judge of performance and acceptability.
- 7. **Subcontractor Interfacing** - The Construction Manager shall be the single point of interface with all subcontractors for the Owner and all of its agents and representatives including the Architect-Engineer. He shall negotiate all change orders, field orders and request for proposals, with all affected subcontractors and shall review the costs of those proposals and advise the Owner and Architect-

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Engineer of their validity and reasonableness, acting in the Owner's best interest prior to requesting approval of each change order from the Owner. Before any work begins on any change order, a written authorization from the Owner must be issued. However, when health and safety are threatened, the Construction Manager shall act immediately to remove the threat to health and safety. The Construction Manager shall carefully review all shop drawings and forward the same to the Architect for review and action. The Architect shall transmit them back to the Construction Manager who will then issue the shop drawings to the affected subcontractor for fabrication or revision. The Construction Manager shall maintain a suspense control system to promote expeditious handling. The Construction Manager shall request the Architect-Engineer via the Owner to make interpretations of the drawings or specifications requested of the Construction Manager by the subcontractors and shall maintain a suspense control system to promote timely response. The Construction Manager shall advise the Owner and Architect-Engineer when timely response is not occurring on any of the above.

8. Permits - The Construction Manager shall secure all necessary building permits from the Permitting Authority and all necessary utility connection permits, the cost of which will be considered a Direct Cost of the project, but not subject to a Construction Phase Fee, as described in Article 8.1(3).
9. Job Site Requirements -
 - A. The Construction Manager shall provide for each of the following activities as a part of its Construction Phase Cost:
 1. Maintain a log of daily activities, including manpower records, weather, delays, major decisions, etc.
 2. Maintain a roster of companies on the project with names and telephone numbers of key personnel.
 3. Establish and enforce job rules governing parking, clean-up, use of facilities and worker discipline.
 4. Provide labor relations management for a harmonious, productive project.
 5. Provide a safety program for the project to meet OSHA requirements. Monitor for subcontractor compliance without relieving any subcontractor of responsibilities to perform work in accordance with the best acceptable practices.
 6. Provide a quality control program.

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7. Provide miscellaneous office supplies that support the construction efforts.
 8. Travel to and from its home office to the project site, as the project requires.
- B. The Construction Manager shall provide personnel and equipment or shall arrange for separate subcontracts to provide each of the following as a direct cost item:
1. Schedule the services of independent testing laboratories for the necessary testing of materials to ensure conformance to contract requirements.
 2. The printing and distribution of all required bidding documents and shop drawings, including the sets required by the Permitting Authority's inspectors.
10. Job Site Administration - The Construction Manager shall provide administrative functions during construction to assure proper documentation, including but not limited to such things as the following:
- A. Job Meetings - Hold weekly progress and coordination meetings to provide for an easy flowing project implementation process, assure timely submittals, expedite processing approvals and return of shop drawings and samples; Coordinate and expedite critical ordering and delivery of materials, work sequences, inspection and testing and labor allocation; Review and coordinate each subcontractor's work; Review and implement revisions to the project schedule; Monitor and promote safety requirements.
- Use the job site meeting as a tool for planning of work and enforcing schedules and for establishing procedures, responsibilities, and identification of authority for all to clearly understand.
- Identify party or parties responsible for follow up on any problems, delay items or questions and record course for solutions. Revisit each pending item at each subsequent meeting until resolution is achieved. Require all present to make any problems or delaying events known to those present for appropriate attention and resolution.
- A regular monthly project status meeting will be held between the Architect-Engineer, Owner and Construction Manager.
- B. Shop Drawing Submittals/Approvals - Provide staff to check shop drawings and to implement procedures to be approved by Owner for submittal and

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transmittal to the Architect-Engineer and Owner of such drawings for action, and closely monitor their submittal and approval process.

- C. Material and Equipment Expediting - Provide staff to closely monitor material and equipment deliveries and to implement checking and follow-up procedures on supplier commitments of all subcontractors.
- D. Payments to subcontractors - Develop and implement a procedure for review, processing and payment of applications by subcontractors for progress and final payments.
- E. Document Interpretation - Refer all questions for interpretation of the documents prepared by the Architect-Engineer to the Architect-Engineer through the Owner.
- F. Reports and Project Site Documents - Record the progress of the project. Submit written progress reports to the Owner and the Architect-Engineer, including information on the subcontractor's work and the percentage of completion. Keep a daily log available to the Owner, the Architect-Engineer and the Permitting Authority inspectors.
- G. Subcontractor's Progress - Prepare periodic punch lists for the subcontractor's work including unsatisfactory or incomplete items and schedules for their completion.
- H. Substantial Completion - Ascertain when the work, or designated portions thereof, are ready for the Owner's and the Architect-Engineer's substantial completion inspection. Prior to the Owner's and Architect's pre-substantial completion inspection, the Construction Manager shall issue a list of incomplete items. After the Owner's and the Architect-Engineer's inspection, the Construction Manager shall prepare a schedule for the completion of the list, indicating completion dates for the Owner's review. The Owner and the Architect-Engineer will issue a Certificate of Substantial Completion in the format prescribed in **Exhibit "C"**, when the work on the Construction Manager's pre-substantial Punch List has been accomplished, to the best of the Construction Manager's ability.
- I. Final Completion - Monitor the Subcontractor's performance on the completion of the Project and provide notice to the Owner and Architect-Engineer that the work is ready for final inspection. Secure and transmit to the Owner, through the Architect-Engineer, all required guarantees, affidavits, releases, bonds and waivers, manuals, record drawings and maintenance books, including issuance of the Certificate of Final Completion attached as **Exhibit "D"**.

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- J. Start-Up - With the Owner's personnel, direct the checkout of utilities, operations, systems and equipment for readiness and assist in their initial start-up and testing by the trade contractors.
 - K. Record Drawings - The Construction Manager shall monitor the progress of its own forces or its Subcontractors on marked up field prints, which at project completion, shall be sent to the Architect-Engineer through the Owner who will prepare the final record drawings. Continuously review "As-Built" Drawings and mark up progress prints to provide as much accuracy as possible.
11. Administrative Records - The Construction Manager may be required to maintain, at the job site, current and up to date files and records such as, but not limited to the following:
- Contracts or Purchase Orders
 - Davis Bacon Federal Compliance Documents
 - ARRA / Build America Bonds Compliance Documentation
 - Shop Drawing Submittal/Approval Logs
 - Equipment Purchase/Delivery Logs
 - Contract Drawings and Specifications with Addenda
 - Warranties and Guarantees
 - Cost Accounting Records:
 - Labor Costs
 - Material Costs
 - Equipment Costs
 - Cost Proposal Requests
 - Payment Request Records
 - Meeting Minutes
 - Cost-Estimates
 - Bulletin Quotations
 - Lab Test Reports
 - Insurance Certificates and Bonds
 - Contract Changes
 - Purchase Orders
 - Material Purchase Delivery Logs
 - Technical Standards
 - Design Handbooks
 - "As-Built" Marked Prints
 - Operating & Maintenance Instruction
 - Daily Progress Reports
 - Monthly Progress Reports
 - Correspondence Files
 - Transmittal Records
 - Inspection Reports
 - Bid/Award Information

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Bid Analysis and Negotiations
Punch Lists
PMIS Schedule and Updates
Suspense (Tickler) Files of Outstanding Requirements
Project Manual
Job Photographs

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

12. Owner Occupancy -

The Construction Manager shall:

Provide services during the design and construction phases, which will provide a smooth and successful Owner occupancy of the Project. The Construction Manager shall provide consultation and project management to facilitate Owner occupancy and provide transitional services to get the work, as completed by the contractors, "on-line" in such conditions as will satisfy Owner operational requirements.

Conduct the Construction Manager's preliminary Punch List inspection and coordinate the completion of all Punch List work to be done with Owner occupancy requirements in mind. The Construction Manager shall videotape all major equipment startup procedures and deliver videos as part of the closeout documents.

Catalog operational and maintenance requirements of equipment to be operated by maintenance personnel and convey the same to the Owner in such a manner as to promote their usability. The Construction Manager shall provide operational training, in equipment use, for all such operators.

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

The Owner may occupy or take control of portions of the Project providing the above items discussed in this paragraph have been completed and the "Substantial Completion", "Start-Up", "Record Drawing", and "Warranty" requirements specified in Article 2.4 above have been completed to the Owner's satisfaction for the portions to be occupied, excluding the requirements for a warranty inspection eleven (11) months after Owner Occupancy.

13. Warranty -

Where any work is performed by the Construction Manager's own forces or by subcontractors under contract with the Construction Manager, the Construction Manager shall warrant that all materials and equipment included in such work will

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be new except where indicated otherwise in Contract Documents, and that such work will be of good quality, free from improper workmanship and defective materials and in conformance with the Contract Documents. With respect to the same work, the Construction Manager further agrees to correct all work found by the Owner to be defective in material and workmanship or not in conformance with the Contract Documents for a period of one year from the date of Substantial Completion or partial occupancy of any portion of the building, whichever comes first, or for such longer periods of time as may be set forth with respect to specific warranties contained in the trade sections of the Specifications. The Construction Manager shall collect and deliver to the Owner any specific written warranties given by others as required by the Contract Documents. In addition, the Construction Manager shall conduct, jointly with the Owner and the Architect-Engineer, a warranty inspection in approximately eleven (11) months after the date of Owner Occupancy.

ARTICLE 3 OWNER'S RESPONSIBILITIES

3.1 Owner's Information:

The Owner shall provide full information regarding its requirements for the Project.

3.2 Owner's Representatives:

The Owner shall designate in writing any additional representatives authorized to act on the Owner's behalf with respect to the Project, not previously defined in Article 1.3, together with the scope of his/her respective authority. In no event shall any delegation of authority be contrary to state or county laws or codes. Functions to be performed by the Owner as set forth in this Agreement can be delegated by the Owner only by written notice to the Construction Manager from the Owner. The Construction Manager shall be entitled to rely on directions, and it shall be required to follow such directions, from the Owner's Representative designated in Article 1.3 and such other representatives from time to time designated in writing within the authority conferred by the City of Mount Dora City Council in this Agreement or any Amendment or Change Order to this Agreement. The City of Mount Dora City Council hereby authorizes the Article 1.3 Owner's Representative to: (1) act as the Owner's agent and execute documents associated with this Project. Examples of these documents are Construction Manager's Contingency Authorizations, Notices of Commencement, Certificates of Substantial Completion and permits from applicable agencies; (2) administer, coordinate, interpret and otherwise manage the contractual provisions and requirements of this Agreement; (3) negotiate a duly authorized Change Order on behalf of the Owner; and (4) issue a duly authorized purchase order, memorandum, letter or other instrument covering the services and work to be provided pursuant to this Agreement. Directions and decisions made by Owner's Representatives shall be binding on the Owner.

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The City of Mount Dora City Council additionally authorizes the City Manager, in conjunction with the Owner's Representative, to authorize changes in the work up to \$35,000.00 (Thirty-five Thousand and 00/100 Dollars) or such other dollar amount as authorized by policy adopted by the City Council. Said work can be funded from the Owner's Contingency and shall not cause an increase to the overall project budget.

3.3 Architect-Engineer's Agreement:

The Owner shall retain an Architect-Engineer for design and to prepare Construction Documents for the Project. The Architect-Engineer's services, duties and responsibilities are described in the Agreement between the Owner and the Architect-Engineer, a copy of which will be furnished to the Construction Manager. The Agreement between the Owner and the Architect-Engineer shall not be modified without written notification to the Construction Manager.

3.4 Site Survey and Reports:

The Owner shall provide all surveys describing the physical characteristics, soil reports, and subsurface investigations, legal limitations, utility locations and a legal description for the Project.

3.5 Approvals and Easements:

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

3.6 Legal Services:

The Owner shall furnish such legal services as may be necessary for providing the items set forth in Article 3.5 and such document examination and interpretation as may require.

3.7 Drawings and Specifications:

The Construction Manager will be furnished a reproducible set of all copies of Drawings and Specifications reasonably necessary and ready for printing.

3.8 Cost of Surveys and Reports:

The services, information, surveys and reports required by the above paragraphs shall be furnished with reasonable promptness in accordance with the approved schedule at the Owner's expense, and the Construction Manager shall be entitled to rely upon the accuracy and completeness thereof.

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3.9 Project Fault Defects:

If the Owner becomes aware of any fault or defect in the Project or non-conformance with the Drawings and Specifications, it shall give prompt written notice thereof to the Construction Manager and Architect-Engineer.

3.10 Funding:

The Owner shall furnish, in accordance with the established schedule, reasonable evidence satisfactory to the Construction Manager that sufficient funds will be available and committed for the cost of each part of the Project. The Construction Manager shall not commence any work, unless authorized in writing by the Owner.

3.11 Lines of Communication:

The Owner and the Architect-Engineer, through the Owner, shall communicate with the subcontractors or suppliers only through the Construction Manager while such method of communication is effective in maintaining project schedules and quality.

3.12 Permitting & Code Inspections:

The Owner recognizes and coordinates with the appropriate Permitting Authority and expects the Construction Manager to do the same.

ARTICLE 4 PERMITS, FEES AND NOTICES

- 4.1 Unless otherwise provided in the Contract Documents, the Construction Manager shall secure and pay for the building permits, which are customarily secured by a General Contractor.
- 4.2 The Construction Manager shall comply with and give notices, as required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Project.
- 4.3 It is not the Construction Manager's responsibility to ascertain whether the Contract Documents are in accordance with applicable laws, statutes, ordinances, Building Codes and Rules and Regulations; however, if the Construction Manager observes that portions of the Contract Documents are inconsistent therewith, the Construction Manager shall promptly notify the Architect-Engineer and Owner in writing and necessary changes shall be accomplished by appropriate modification.
- 4.4 If the Construction Manager performs work knowing it to be contrary to applicable laws, statutes, ordinances, Building Codes and Rules and Regulations without such notice to the Architect-Engineer and Owner, the Construction Manager shall assume full responsibility for such work and shall bear all attributable costs and damages.

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- 4.5 Cost for all re-inspections of work found to be defective and subsequently repaired, shall be borne by the Construction Manager if such defective work was performed knowingly contrary to applicable laws, statutes, ordinances, Building Codes and Rules and Regulations.

ARTICLE 5 SUBCONTRACTS

5.1 Definition:

A subcontractor is a person or organization who has a direct contract with the Construction Manager to perform any of the work at on the Project. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner or Architect-Engineer and any subcontractor.

5.2 Proposals:

Subject to Article 9 and, in accordance with Article 2.4(4), the Construction Manager shall request and receive proposals from subcontractors and suppliers and will award those contracts to the qualified low bidder after reviewing all proposals with the Owner and Architect-Engineer and all are satisfied that the subcontractor/supplier is qualified to perform work or provide materials for the Project.

5.3 Required Subcontractors' Qualifications and Subcontract Conditions:

1. Sub-contractual Relations - The Construction Manager shall require each Subcontractor to assume all the obligations and responsibilities which the Construction Manager owes the Owner under this Agreement, to the extent of the work to be performed by the Subcontractor. Said agreements shall be made in writing and shall preserve and protect the rights of the Owner and Architect-Engineer under the Contract Documents with respect to the work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights. Where appropriate, the Construction Manager shall require each Subcontractor to enter into similar agreements with its sub-subcontractor.

Insurance requirements for Subcontractors shall be no more stringent than those requirements imposed on the Construction Manager by the Owner.

The Construction Manager shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound.

2. All subcontracts shall provide -

LIMITATION OF REMEDY- NO DAMAGES FOR DELAY

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The subcontractor's exclusive remedy for delays in the performance of the contract caused by events beyond its control, including delays claimed to be caused by the Owner or Architect-Engineer or attributable to the Owner or Architect-Engineer and including claims based on breach of contract or negligence, shall be an extension of its contract time and shall in no way involve any monetary claim.

In the event of a change in the work, the Subcontractor's claim for adjustments in the contract sum are limited exclusively to its negotiated costs for such changes plus no more than seven percent (7%) for overhead, profit and bond costs.

The subcontract shall require the subcontractor to expressly agree that the foregoing constitutes the sole and exclusive remedy for delays and changes in the work and eliminates any other remedies or claims for increase in the contract price, damages, losses or additional compensation. Each subcontract shall require that any claims by the subcontractor for delay or additional cost must be submitted to the Construction Manager within the time and in the manner in which the Construction Manager must submit such claims to the Owner, and that failure to comply with the conditions for giving notice and submitting claims shall result in the waiver of such claims.

5.4 Responsibilities for Acts and Omissions:

The Construction Manager shall be responsible to the Owner for the acts and omissions of its employees, agents, subcontractors, the agents thereof and employees thereof, and all other persons performing any of the work or supplying materials for the Project under a contract to the Construction Manager.

ARTICLE 6 SCHEDULE, TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 6.1 At the time a Guaranteed Maximum Price (GMP) is established as provided for in Article 7, a Project Substantial Completion Date, a Project Final Completion Date and an Owner Occupancy Date for completion of the Project in accordance with the master project schedule, shall also be established by the Construction Team. The Construction Manager agrees to complete the construction in accordance with the agreed Substantial Completion Date, Final Completion Date and Owner Occupancy Date. The Construction Manager acknowledges that failure to complete the Project within the construction time set forth in the approved schedule will result in substantial damages to the Owner. These liquidated damages are the sole remedy for delay, shall in no way be deemed a waiver of the Owner's right to all other legal remedies in this Agreement.

In the event the Construction Manager does not achieve the Substantial Completion Date the Construction Manager shall pay the Owner, as liquidated damages and not as a penalty, in the amount of Five Hundred Dollars (\$500.00) for each calendar day the actual time of

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performance exceeds the authorized Substantial Completion Date for each separate GMP as applicable.

- 6.2 The date of Owner Occupancy shall occur as described in Article 2.4(12) herein above. Warranties called for by this Agreement or by the Contract Documents shall commence on the Substantial Completion Date, unless otherwise agreed to, in writing, between the Owner and Construction Manager.

ARTICLE 7 GUARANTEED MAXIMUM PRICE FOR CONSTRUCTION

- 7.1 When the design documents are sufficiently complete to establish the scope of work for the Project, or any portion thereof, as generally defined by a design document listing to be provided by the Architect-Engineer, or at such time thereafter designated by the Owner, the Construction Manager will establish and submit in writing to the Owner for approval, a Guaranteed Maximum Price (GMP), guaranteeing the maximum price to the Owner, for the construction cost of the Project or designated part thereof. The Construction Manager acknowledges multiple GMPs may be required for the portions of the Project to support the project phasing and schedule. Such Guaranteed Maximum Price will be subject to modification for changes in the Project as provided in Article 10; however, the actual price paid for the work by the Owner shall be the actual cost of all work subcontracts, supply contracts, direct labor costs, direct supervision costs and direct job costs as defined under Article 9, plus the Construction Manager's costs and fees, or the GMP, whichever is less when the work is complete.
- 7.2 The GMP will only include those taxes, in the cost of the Project, which are legally enacted at the time the GMP is established.
- 7.3 At the time of submission of a GMP, the Construction Manager will verify the time schedule for activities and work, which were adopted by the Construction Team and used to determine the Construction Manager's cost of work. Included in the GMP will be a Contractor's Contingency, which is included for the Construction Manager to use, with the Owner's consent. The contingency is intended to cover the costs associated with Project scope that were not adequately detailed at the time of GMP. The Contractor's Contingency is also intended to protect against price increases between the GMP and the completion of the 100% construction documents, as well as for the purpose of defraying the expenses due to unforeseen circumstances relating to construction and for price increases attributable to any code compliance reviews. The Construction Manager will be required to furnish documentation evidencing expenditures charged to the Contractor's Contingency prior to the release of funds by the Owner. Documentation for use of the Contractor's Contingency shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the Project Management Information System. The Architect-Engineer shall verify the actual costs. If there are funds remaining in the Contractor's Contingency at the conclusion of the Project, said funds will be returned to the Owner, through deductive change order.

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- 7.4 When the Project is bid and one hundred percent (100%) of the trade contracts have been executed, the contingency within the GMP may be decreased in proportion to the percent of the work completed up to a maximum of fifty percent (50%). In other words, if ten percent (10%) of the work has been completed and the Owner requests that the contingency within the GMP be adjusted, then ten percent (10%) of the contingency within the GMP will be removed from the GMP by change order up to a maximum of fifty percent (50%) of the initial GMP contingency value. During the buyout period of the trade contracts, at a point mutually agreed upon between the Owner and Construction Manager, the net amount of the buyout will be reviewed. If the net amount of the total buyout results in excess funds being required, those funds will be taken from the Contractor's Contingency.

If the net amount of the buyout results in a savings, the savings will be assigned to the Owner's Buyout Contingency as defined in Article 7.5

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

- 7.5 The Owner's Buyout Contingency shall be created by the savings generated by subcontractor buyout as set forth in Article 7.4 and also by reductions in scope that otherwise could reduce the GMP. The intent of this Owner's Buyout Contingency is to allow funds already within the GMP to remain in the GMP and be used at the Owner's discretion for scope issues that may become required and/or desired during the course of the Project.

Authorizations up to Thirty-five Thousand and 00/100 Dollars (\$35,000.00), or such other dollar amount as authorized by policy adopted by the City Council, for the use of the Owner's Buyout Contingency, may be granted by the City Manager. Authorizations, for more than Thirty-five Thousand and 00/100 Dollars (\$35,000.00), will be granted by the City Council unless the City Council authorizes an increase in the City Manager's authority for the same.

ARTICLE 8 CONSTRUCTION MANAGER'S COSTS

- 8.1 In consideration of the performance of this Agreement, the Owner agrees to pay the Construction Manager as compensation for his services, costs or fees, as set forth herein.
1. Design Phase/Pre-construction Costs - For the performance of the services set forth under Article 2 and for profit and overhead related to these services, the Construction Manager shall be paid a total amount to be determined prior to the issuance of the Task Authorization. The Design Phase/Pre-construction Costs shall be paid according to the percent complete of the design phase.

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The Construction Manager's personnel to be assigned during this phase and their duties and responsibilities to this project and the duration of their assignments are shown on the Task Authorization.

2. Construction Phase Costs - Prior to commencement of each Construction Phase, the Owner will direct the Construction Manager in writing to proceed into said Construction Phase. The Construction Phase Cost for work or services performed during the Construction Phase shall be an amount of *(To Be Determined at GMP)*. The Construction Phase Costs shall be paid according to the percent complete of the Project. The first monthly payment shall be due thirty (30) days following the issuance of the first Construction Authorization by the Owner's Representative and the final monthly payment shall be paid only when construction of the Project, or portion thereof, is finally completed and occupancy of the Project, or portion thereof, accepted by the Owner. If construction is authorized only for a part of the Project, the costs paid shall be proportionate to the amount of work authorized by the Owner.
 - A. Adjustments in Costs - For changes in the Project as provided in Article 10, the Construction Phase Costs shall be adjusted as follows:
 1. The Construction Manager shall be paid an additional amount subject to negotiation if the Construction Manager is placed in charge of reconstruction of an insured or uninsured loss excluding any condition that may have been caused from negligent acts by the Construction Manager.
 2. Should the construction duration for any phase extend longer than stipulated above, there shall be no additional Construction Phase Costs paid to the Construction Manager unless such delays are as defined in Article 10.2.
 3. The Construction Manager will not be due any additional Construction Phase Fee on increases in the Guaranteed Maximum Price (GMP) that do not exceed a cumulative total of two percent (2%) for each separate GMP. Should a GMP be increased by more than a cumulative total of two percent (2%) under the terms of Article 10 hereinafter, due to no fault of the Construction Manager, the Construction Manager's additional Construction Phase Fee will be based on the Original GMP as set forth in the below chart for that portion of the accumulative increases in the GMP that exceed the GMP by more than two percent (2%).

GMP	Construction Manager's Fee
\$0.00 to \$150,000	14%
\$150,001 to \$500,000	12%

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\$500,001 to \$750,000	9%
\$750,001 to \$1,000,000	8%
\$1,000,001 to \$1,500,000	7%
\$1,500,001 to \$2,000,000	6%

Construction Manager's Exclusive Remedy - In the event the construction Substantial or Final Completion date is extended, regardless of whether delay is caused by any act or neglect of the Owner or the Architect-Engineer, or is attributable to the Owner or the Architect-Engineer, the Construction Manager's sole and exclusive remedy is an extension of the Substantial Completion Date and payment of additional Construction Phase Costs and Construction Phase Fee as provided above.

B. Costs and Expenses Included in Construction Phase Costs – The following are included in the Construction Phase Costs for services during the Construction Phase:

1. Salaries or other compensation of the Construction Manager's employees at its principal office and branch offices.
 2. General operating expenses of the Construction Manager's principal and branch offices related to the Project.
 3. The costs of all data processing staff.
 4. Salaries or other compensation of the Construction Manager's employees at the job site.
 5. General operating expenses incurred in the management and supervision of the Project, except as expressly included in Article 9.
 6. Those services set forth in Article 2.4(9)(A).
 7. Job office supplies including but not limited to paper, pencils, paper clips, file folders, staples and janitorial supplies.
3. Construction Phase Fee - For overhead, profit and general expenses of any kind, except as may be expressly included in Article 9, for services provided during and related to the construction phase, the amount shall be based on the Original GMP as set forth in the chart below and shall be converted to a fixed amount upon acceptance of the GMP, subject to changes as described herein, and shall be paid proportionally to the ratio of the cost of the work in place, including stored materials, as it bears on the latest estimate of the total construction cost and/or to the GMP, whichever is less. The balance of the fee shall be paid when construction

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of the Project, or portion thereof, is finally completed and occupancy of the Project, or portion thereof, is accepted by the Owner. If construction is authorized only for a part of the Project, the fee paid shall be proportionate to the amount of work authorized by the Owner. The Construction Manager's exclusive remedy for any adjustments in the Construction Phase Fee is provided in Article 8.1(2).

GMP	Construction Manager's Fee
\$0.00 to \$150,000	14%
\$150,001 to \$500,000	12%
\$500,001 to \$750,000	9%
\$750,001 to \$1,000,000	8%
\$1,000,001 to \$1,500,000	7%
\$1,500,001 to \$2,000,000	6%

ARTICLE 9 DIRECT COSTS OF THE PROJECT

9.1 Definition:

The term Direct Cost of the Project shall mean costs necessarily incurred in the Project during the Construction Phase for Construction Services and paid by the Construction Manager, which are not included in the Construction Phase Fee. Such costs shall include the items set forth below in this Article.

The Owner agrees to pay the Construction Manager for the Direct Costs of the Project as defined herein. Such payment shall be in addition to the Construction Phase Costs stipulated in Article 8. Invoices submitted under this Article 9 shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

9.2 Direct Cost Items:

1. Cost of all materials, supplies and equipment incorporated in the Project, including costs of transportation and storage thereof.
2. Payments due to subcontractors from the Construction Manager or made by the Construction Manager to subcontractors for work performed pursuant to contract under this Agreement.
3. Cost including transportation and maintenance of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workmen, employed or consumed in the performance of the work.
4. Rental charges on all necessary machinery and equipment, exclusive of hand tools used at the site of the Project, whether rented from the Construction Manager or other, including installation, repairs and replacement, dismantling, removal,

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transportation and delivery costs thereof, which are used in the support of a subcontractor or the Construction Manager's own forces in the performance of the work, at rental charges consistent with those prevailing in the area.

5. Cost of the premiums for all insurance and cost of premiums for all bonds, which the Construction Manager is required to procure by this Agreement specifically for the construction of the Project. The cost of the work shall include any subcontractor bonds the Construction Manager deems appropriate. There shall be no Construction Phase Fee on this item.
6. Losses and expenses sustained by the Construction Manager in connection with the work, not compensated by insurance, including deductibles provided they have resulted from causes other than the negligent misconduct of Construction Manager.
7. Sales, use, gross receipts or similar taxes related to allowable direct costs of the Project imposed by any governmental authority, and for which the Construction Manager is liable.
8. The cost of corrective work, subject to the GMP, except for any corrective work made necessary because of defective workmanship or other problems caused by the negligence of the Construction Manager or its subcontractors or suppliers. No costs shall be paid by the Owner to the Construction Manager for any expenses made necessary to correct defective workmanship or to correct any work not in conformance with the Contract Documents or to correct any deficiency or damage caused by the negligent acts by the Construction Manager.
9. Costs for repairs and maintenance, which are consistent with industry standards associated with work required during the warranty period, which may be the responsibility of Construction Manager. This shall not apply to work, which is the responsibility of subcontractors, except in the case of a subcontractor's default.
10. Costs for trash and debris control and removal from the site.
11. Costs incurred due to an emergency affecting the safety of persons and property.
12. Legal costs reasonably and properly resulting from the Project on behalf of the Owner, including handling claims for changes by Subcontractors and Vendors, subject to the following limitations:
 - A. The Owner approved incurring such costs in advance, which approval shall not be unreasonably denied; and
 - B. The legal costs were not incurred as result of the Construction Manager's own negligence or default.

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This paragraph does not provide for payment of legal costs incurred in preparing or asserting claim or requests, by Construction Manager itself, for change orders or in enforcing the obligations of this contract.

13. All costs directly incurred in the performance of the Project for the benefit of the Project and not included in the Construction Phase Costs as set forth in Article 8.
14. If requested by the Owner, the Construction Manager will perform all or a portion of the General Conditions work as a Direct Cost of the Project.
15. If approved by the Owner, the Construction Manager, when qualified, may perform all or a portion of the work for any item listed on the estimate or GMP breakdown where it is deemed advantageous due to schedule or economic benefit as a Direct Cost of the Project.
16. Transportation outside of Lake, Orange or Seminole for those personnel employed directly for the Project, not including relocation expenses. Such transportation must be approved in advance by the Owner, and will be in accordance with the Construction Manager's standard personnel policy.
17. Costs of all reproductions used for bidding or information purposes required by the Project to directly benefit the Project.
18. Costs for watchman and security services for the Project.
19. Costs for efficient logistical control of the site, including horizontal and vertical transportation of materials and personnel and costs for adequate storage and parking.
20. Costs for such temporary facilities and temporary protection during construction, as approved by the Owner, including temporary water, heat, power, sanitary facilities, telephones, radios and computers with software.
21. Costs for any job site items not referenced herein, not normally provided by the subcontractors, which will be provided by the Construction Manager as required to complete the Project.

ARTICLE 10 CHANGES IN THE PROJECT

10.1 Change Orders:

The Owner, without invalidating this Agreement, may order changes in the Project within the general scope of this Agreement consisting of additions, deletions or other revisions, with the GMP and the Substantial and/or Final Completion Dates being adjusted

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accordingly. All changes in the Project, not covered by an authorized contingency, shall be authorized by a Change Order signed by the Owner before the change is implemented.

1. A Change Order is a written order to the Construction Manager signed by the Owner issued after the execution of this Agreement, authorizing a change in the Project, the Construction Phase Fee, or other attributable cost of the Project.
2. The increase or decrease in the GMP resulting from a change in the Project shall be determined in one or more of the following ways:
 - A. by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect-Engineer and Owner;
 - B. by unit prices stated in the Agreement or subsequently agreed upon;
 - C. by cost as defined in Article 9 and a mutually acceptable fixed or percentage fee; or
 - D. by the method provided in Article 10.1(3).
 - E. Should any costs be required for design of an alternative system that would be advantageous to the Project and result in a deductive change order, the Construction Manager shall include the cost of the redesign services of the Architect-Engineer so that the Owner can make proper assessment of the cost of such change. Payment for additional services shall be made by the Owner.
3. If none of the methods set forth in Article 10.1(2) is agreed upon, the Construction Manager, provided it receives a written order signed by the Owner, shall promptly proceed with the work involved. The cost of such work shall then be determined on the basis of the reasonable expenditures and savings of those performing the work attributed to the change. In the event a Change Order is issued under these conditions, the Construction Manager shall establish an estimated cost of the work and the Construction Manager shall not perform any work if the cost exceeds that estimate without prior written approval by the Owner.
4. In the event of either Article 10.1(2) or Article 10.1(3) above, the Construction Manager shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data, of the increase in the Direct Cost of the Project as outlined in Article 9.
5. The amount of decrease in the Guaranteed Maximum Price to be allowed by the Construction Manager to the Owner for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease.

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6. If unit prices are stated in the Agreement or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order, and that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to the Owner or the Construction Manager, the applicable unit prices and Guaranteed Maximum Price shall be equitably adjusted.
7. In the performance of the work, should concealed conditions be encountered below the surface of the ground or should concealed or unknown conditions in an existing structure be inconsistent with the conditions indicated by the Drawings, Specifications, or Owner furnished information or should unknown physical conditions exist below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Guaranteed Maximum Price and the Substantial and/or Final Completion Dates shall be equitably adjusted by Change Order upon a request for Change Order in accordance with Article 10.2.
8. In the event the Construction Manager encounters material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, petroleum waste, biohazardous substances, radioactive waste or any other substance falling within the category of hazardous or toxic waste under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or any other state or federal environmental statute or regulation, hereinafter collectively referred to as "hazardous waste," the Construction Manager shall immediately stop work in the area affected and report the condition to the Owner in writing. Owner shall thereafter as soon as reasonably possible conduct a thorough investigation to determine if the suspected material in the affected area is in fact hazardous waste and shall certify to Construction Manager that such material is not hazardous waste or if such material is in fact hazardous waste that such hazardous waste has been abated and that it is safe to return to the affected area and resume work. The Construction Manager may require the Owner to furnish copies of reports of tests conducted by a qualified testing laboratory acceptable to Construction Manager verifying the absence of such hazardous waste before Construction Manager will be required to resume work. The Contract time and amount shall thereafter be equitably adjusted to account for the time lost due to the encountering of the hazardous waste and the reasonable cost associated therewith. The Construction Manager shall, through an analysis of network schedule, prove such time delays and associated costs.
9. The Construction Manager shall not be required to perform any work relating to hazardous waste without consent pursuant to this Article 10.

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10.2 Claims for Additional Cost or Time:

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

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

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

10.3 Minor Changes in the Project:

The Owner will have authority to order minor changes in the Project not involving an adjustment in the Guaranteed Maximum Price or an extension of the Substantial and/or Final Completion Date and not inconsistent with the intent of the Contract Documents. Such changes shall be affected by written order. The Documentation of changes shall be determined by the Construction Team, included in the Project Manual and displayed monthly in the Project Management Information System. Changes shall be approved by the Owner and Architect-Engineer.

10.4 Emergencies:

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

ARTICLE 11 **DISCOUNTS**

All discounts for prompt payment shall accrue to the Owner to the extent the cost of the item(s) purchased is paid directly by the Owner or from a fund made available by the Owner to the Construction Manager for such payments. To the extent the cost associated with the Project is paid with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from the sale of surplus materials and equipment, shall be credited to the cost of the Project.

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ARTICLE 12 PAYMENTS TO THE CONSTRUCTION MANAGER

12.1 Monthly Statements:

The Construction Manager shall submit to the Owner a sworn statement, along with the cost reports required under Article 2.1(5), showing, in detail, all moneys paid out, cost accumulated or costs incurred during the previous period and the amount of the Construction Phase Fees due as provided in Article 8. This data shall be attached to the Partial Pay Request form shown in **Exhibit "E"**. Ten percent (10%) retainage shall be held on all payments until the contract is fifty percent (50%) complete, except when approved by the Owner certain suppliers and subcontractors may be paid the entire amount due when such payment is generally the practice of the industry. At fifty percent (50%) completion, the Owner may approve a reduction of the retainage from ten percent (10%) to five (5%) at its discretion. Retainage shall not be withheld on services or fees set forth in Article 8. Payments by the Owner to the Construction Manager shall be made as described in this Article 12. As a condition to application for a monthly partial pay requisition, the Construction Manager agrees that all as-built information will be recorded within thirty (30) days after receipt of information that a change to the Construction Documents has occurred.

12.2 Final Payment:

Final payment constituting the unpaid balance of the Construction Phase Cost of the Project and the Construction Phase Fee, shall be due and payable as described in Article 12.4 after Final Completion, provided that the Project has been finally completed, that the Construction Manager has verified by appropriate signature that it has completed all items and that this Agreement has been finally performed. However, if there should remain work to be completed, the Construction Manager, the Owner, and the Architect-Engineer shall list those items prior to receiving final payment and the Owner may retain a sum equal to the estimated cost of completing any unfinished work and portion of the Construction Manager's retainage, provided that said unfinished items are listed separately and the estimated cost of completing the unfinished items are likewise listed separately. Thereafter, Owner shall pay the Construction Manager monthly, the amount retained for each incomplete item after each such item is completed.

12.3 Payments to Subcontractors:

The Construction Manager shall promptly, within ten (10) days after receipt of payment from the Owner, pay all the amounts due to subcontractors less a retainage of ten percent (10%) until the project is fifty percent (50%) complete, and based on Construction Manager's evaluation of the subcontractor's acceptable performance, the Owner may approve a reduction in retainage from ten percent (10%) to five percent (5%) thereafter. If there should remain items to be completed, the Construction Manager, the Owner and Architect-Engineer shall list those items required for completion and the Construction Manager shall require the retainage of a sum equal to five percent (5%) of the estimated

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

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

12.4 Construction Manager's Payment Rights:

All payments for construction services shall be governed by and made in accordance with Florida's Prompt Payment Act, Florida Statutes, Section 218.735.

12.5 Payments for Materials and Equipment:

Payments will be made for material and equipment not incorporated in the work but delivered and suitably stored at a Project site or another location that is insured to protect the Owner's assets subject to prior approval and acceptance by the Owner on each occasion.

12.6 Withholding Payments to Subcontractors:

The Construction Manager shall not withhold payments to subcontractors if such payments have been made to the Construction Manager. Should this occur, the Construction Manager shall return such moneys to the Owner, adjusting pay requests and project bookkeeping as required. However, this provision shall not apply should payments to subcontractors be withheld as a result of procuring normal process paperwork in accordance with the Construction Manager's contract with said subcontractor. The Construction Manager shall, if requested by the Owner, notify the Owner in writing as to the reason for withholding payment.

ARTICLE 13 INSURANCE, INDEMNITY AND WAIVER OF SUBROGATION

13.1 Indemnity:

The Construction Manager agrees to be liable for any and all damages, losses and expenses incurred, by the Owner, in any way related to or caused by the acts and/or omissions of the Construction Manager, or any of its employees, agents, sub-contractors, representatives, volunteers or the like, to the extent stemming from the services provided by this Agreement. The Construction Manager agrees to indemnify, defend and hold the Owner harmless for any and all claims, suits, judgments, damages, losses and expenses, including

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but not limited to, court costs, expert witness fees, consultation services and attorney's fees, through and including any appeals, arising from and related to any and all acts and/or omissions of the Construction Manager, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like, to the extent stemming from the services provided by this Agreement. Said indemnification, defense and hold harmless activities shall not be limited by any required insurance coverage amounts set forth herein and shall survive termination or natural expiration of this Agreement.

13.2 Construction Manager's Insurance:

1. The Construction Manager shall not commence any construction work in connection with this Agreement until he has obtained all of the following types of insurance and such insurance has been approved by the Owner, nor shall the Construction Manager allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be from insurers qualified and doing business in Florida with an AM Best Company rating of no less than A.
2. Worker's Compensation Insurance - The Construction Manager shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees, and the like, connected with the work of this Project and, in case any work is sublet, the Construction Manager shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the subcontractor's employees unless such employees are covered by the protection afforded by the Construction Manager. Such insurance shall comply with Florida Worker's Compensation Law. In case any class of employees, engaged in hazardous work on the Project, is not protected under the Worker's Compensation statute, the Construction Manager shall provide adequate insurance, satisfactory to the Owner, for the protection of employees not otherwise protected. Employers' liability shall be no less than \$1,000,000/1,000,000/1,000,000.
3. Construction Manager's Public Liability and Property Damage Insurance - The Construction Manager shall take out and maintain during the life of this Agreement, Comprehensive General Liability and Comprehensive Automobile Liability Insurance to protect it from claims of damage for personal injury, including accidental death, as well as claims for property damage which may arise from its operations under this Agreement whether such operations are by the Construction Manager or by anyone directly or indirectly employed by it, and the amount of such insurance shall have the following minimum limits:
 - A. GENERAL LIABILITY: One Million Dollars (\$1,000,000.00) each occurrence; GENERAL AGGREGATE: Two Million Dollars (\$2,000,000.00). There shall not be an EFIS Exclusion Endorsement on any general liability policy;

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- B. Automobile Liability Coverages, One Million Dollars (\$1,000,000.00) combined single limit, and One Million Dollars (\$1,000,000.00) for each occurrence of bodily injury and property damage;
 - C. Excess Liability, Umbrella Coverage, Two Million Dollars (\$2,000,000.00) each occurrence.
- 4. Subcontractor's Public Liability and Property Damage Insurance - The Construction Manager shall require each of its subcontractors to procure and maintain during the life of any such subcontract, insurance coverage of the types specified above or insure the activities of the subcontractors in the Construction Manager's policies, as specified above.
 - 5. "XCU" (Explosion, Collapse, Underground Damage) - The Construction Manager's Liability Policy shall provide "XCU" coverage for those classifications in which they are excluded.
 - 6. Products and completed operations Coverages - The Construction Manager's Liability Policy shall include Broad Form Property Damage Coverage, Products and Completed Operations Coverages. The products and completed operations portions of the liability coverage shall extend for a period of two (2) years after the Final Acceptance of the Project by the Owner.
 - 7. Contractual Liability Work Contracts - The Construction Manager's Liability Policy shall include Contractual Liability Coverage designed to protect the Construction Manager for contractual liabilities assumed by the Construction Manager in the performance of this Agreement.
 - 8. Indemnification Rider -
 - A. To cover to the fullest extent permitted by law, the Construction Manager shall indemnify and hold harmless the Owner and the Architect-Engineer and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Project, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), and to the extent it (2) is caused in whole or in part by any negligent act or omission of the Construction Manager, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right to obligation of indemnity which would otherwise exist as to any party or person described in this Article.

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- B. In any and all claims against the Owner or the Architect-Engineer or any of their agents or employees by any employee of the Construction Manager, any subcontractor, anyone directly or indirectly employed by either or anyone for whose acts either may be liable, the indemnification obligations under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Construction Manager or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
 - C. The obligations of the Construction Manager under this Article 13.2(8) shall not extend to the liability of Architect-Engineer, his agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instruction by Architect-Engineer, its agents or employees provided such giving or failure to give is the primary cause of the injury or damage.
 - D. The Construction Manager hereby acknowledges receipt of Ten Dollars (\$10.00) and other good and valuable consideration from the Owner and acknowledges receipt of Ten Dollars (\$10.00) and other good and valuable consideration from the Architect-Engineer in exchange for giving the Owner and Architect-Engineer, respectively, the indemnification provided above in Articles 13.1 and 13.2.
9. Builder's Risk Coverage - The Construction Manager shall take out and maintain a "Builder's Risk Policy" for each assigned Project, issued to provide coverages on an "all risk" basis including theft. This coverage shall not lapse or be canceled because of partial occupancy by the Owner prior to Final Acceptance of the Project. The Owner may elect to take out and maintain this insurance coverage. Should the Owner purchase said insurance, the insurance policy shall have a deductible for each occurrence of Five Thousand and 00/100 Dollars (\$5,000.00). The Construction Manager shall be responsible for paying any deductible amount.
10. Certificate of Insurance - For every insurance policy required hereunder, the Construction Manager shall provide the Owner with a Certificate of Insurance evidencing such coverage for the duration of this Agreement, or such longer period if required hereunder. Said Certificate of Insurance shall be dated and show:
- A. The name of the insured Construction Manager;
 - B. The specified job by name and job number;
 - C. List the "CITY OF MOUNT DORA" as an Additional Insured;
 - D. Recognizes the Indemnification requirements of this Agreement;
 - E. The name of the insurer;
 - F. The number of the policy;
 - G. The effective date;

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- H. The termination date;
 - I. A statement that the insurer will mail notice to the CITY at least thirty (30) days prior to any material changes in the provisions or cancellation of the policy.
- 11. Receipt of certificates or other documentation of insurance or policies or copies of policies by the Owner, or by any of its representatives, which indicates less coverage than is required hereunder, does not constitute a waiver of the Construction Manager's obligation to fulfill the insurance requirements specified herein.
 - 12. The Construction Manager shall ensure that any sub-contractor(s), hired to perform any of the work on any part of the Project, maintain appropriate insurance as determined by the Construction Manager. In addition, the Construction Manager shall maintain proof of same on file and made readily available upon request by the Owner.
- 13.3 Waiver of Subrogation:
- 1. The Owner and the Construction Manager waive all rights against each other, for damages caused by perils covered by insurance provided under Article 13.2 to the extent they are covered by such insurance except such rights as either may have to the proceeds of such insurance held by the Owner and Construction Manager as trustees. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
 - 2. The Owner and Construction Manager waive all rights against each other for loss or damage to any equipment used in connection with the Project and covered by any property insurance. The Construction Manager shall require similar waivers from all subcontractors and their sub-subcontractors.
 - 3. The Owner waives subrogation against the Construction Manager on all property and consequential loss policies carried by the Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.
 - 4. If the policies of insurance referred to in this Article require an endorsement to provide for continued coverage where there is a waiver of subrogation, the Owner of such policies will cause them to be so endorsed and failure to obtain proper endorsement nullifies the waiver of subrogation.

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ARTICLE 14 TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO PERFORM CONSTRUCTION MANAGER'S OBLIGATION

14.1 Termination by the Construction Manager:

If the Project is stopped for a period of thirty (30) days under an order of any court or other public authority having jurisdiction or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Construction Manager, or if the Project should be stopped for a period of sixty (60) days by the Construction Manager, for the Owner's failure to make payments thereon, then the Construction Manager may, upon seven (7) days written notice to the Owner, request payment for all work executed, the Construction Manager's fees earned to date, and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit thereon and termination expenses incurred by the Construction Manager.

14.2 Owner's Right to Perform Construction Manager's Obligations and Termination by Owner for Cause:

1. If the Construction Manager fails to perform any of its obligations under this Agreement, including any obligation it assumes to perform work with its own forces, the Owner may correct any deficiencies after providing seven (7) days written notice to the Construction Manager. In such an event, the GMP, or the actual cost of the Project, whichever is less, shall be reduced by the cost to the Owner of correcting such deficiencies and the Construction Manager's Construction Phase Fee shall also be reduced by the amount required to manage the correction of such deficiencies.
2. The Owner may, without prejudice to any other right or remedy and upon providing the Construction Manager and its surety, if any, seven (7) days written notice of failures or deficiencies, terminate this Agreement with the Construction Manager and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the Project by whatever means or method the Owner, in its sole discretion, deems appropriate.
3. If the Construction Manager is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Construction Manager's insolvency, or if it persistently or repeatedly refuses or fails, except in cases for which an extension of time is provided, to supply enough properly skilled workmen or proper materials and fails to maintain an established schedule by falling forty-five (45) days or more behind the schedule adopted by the Construction Team, or if the Construction Manager fails to make prompt payments to subcontractors for materials or labor, or persistently disregards laws, rules, ordinances, regulations or orders of any public authority having jurisdiction, or

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otherwise is in breach of a material provision of this Agreement, the Construction Manager shall not be entitled to receive any further payment until the Project is finished nor shall it be relieved from its obligations assumed under Article 6. Reasonable termination expenses incurred by the Owner may be deducted from any payments which remain owed to the Construction Manager, excluding any monies owed the Construction Manager for subcontract work.

14.3 Termination by Owner Without Cause:

1. The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon, owned by the Construction Manager, and may finish the Project by whatever method he may deem expedient without prejudice to any right or remedy.
2. Upon seven (7) days written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:
 - A. cease operations as directed by the Owner in the notice;
 - B. take actions necessary, or that the Owner may direct, for the protection and preservation of the work; and
 - C. terminate all existing subcontracts and purchase orders and not enter into further subcontracts and purchase orders, except for work directed to be performed prior to the effective date of termination stated in the notice.
3. In case of such termination for the Owner's convenience, the Construction Manager shall be entitled to receive payment for work executed, and costs incurred by reason of such termination, along with a reasonable fee, as defined in Article 8.1(2), overhead and profit on the work performed.

ARTICLE 15 **ASSIGNMENT AND GOVERNING LAW**

- 15.1 Neither the Owner nor the Construction Manager shall assign its interest in this Agreement without the written consent of the other except as to the assignment of proceeds.
- 15.2 This Agreement shall be governed by the laws of the State of Florida. Venue shall be in Lake County, Florida. The parties waive all rights to trial by jury.

ARTICLE 16 **NOTICE OF CLAIM; WAIVER OF REMEDIES**

- 16.1 The Owner's liability to the Construction Manager for any claims arising out of or related to the subject matter of this Agreement, whether in contract or tort, including, but not

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limited to, claims for extension of construction time, for payment by the Owner of the costs, damages or losses because of changed conditions under which the work is to be performed, or for additional work, shall be governed by the following provisions:

1. All claims must be submitted as a Request for Change Order in the manner as provided herein;
2. The Construction Manager must submit a Notice of Claim to Owner within twenty (20) days of the Construction Manager becoming aware of the occurrence, or the event, giving rise to the claim; and
3. Within ten (10) days of submitting its Notice of Claim, the Construction Manager shall submit to the Owner its Request for Change Order, which shall include a written statement of all the details of the claim, including a description of the work affected.

The Construction Manager agrees that the Owner shall not be liable for any claim that the Construction Manager fails to submit as a Request for Change Order as provided in this paragraph to the extent that the Owner is prejudiced by the failure of the Construction Manager to submit the Request for Change Order.

- 16.2 After receipt of a Request for Change Order, the Owner, in consultation with the Architect-Engineer, shall deliver to the Construction Manager its written determination of the claim.
- 16.3 For work the Construction Manager performs with its own forces, and in addition to the adjustments provided for in Article 8, the Construction Manager's exclusive remedy for delays in performance of the construction caused by events beyond its control, including delays claimed to be caused by or attributable to the Owner or the Architect-Engineer, including claims based on breach of contract or negligence, shall be a claim submitted in compliance with Article 16.1 above, for an extension of the scheduled construction time. In the event of a change in such work, the Construction Manager's claims for adjustments in the contract sum are limited exclusively to its actual costs for such changes plus the Construction Manager's Fee established at each Project's Original GMP. The Construction Manager expressly agrees that the foregoing constitutes its sole and exclusive remedy for delays and changes in work, and eliminates any other remedies for claims for increase in the contract price, delays, changes in the work, damages, losses or additional compensation.

ARTICLE 17

DIRECT MATERIALS ACQUISITION AND SALES TAX EXEMPT PURCHASE PROCEDURES FOR PUBLIC PROJECTS

- 17.1 Direct Materials Acquisition by Owner - Supply Bonds:

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1. The Construction Manager shall ensure that each subcontractor includes Florida state tax and other applicable sales tax for all material, supplies and equipment included in a subcontractor's bid.
2. The Owner may, if not prohibited by law, exercise a right to purchase directly, various construction materials, supplies and equipment that may be part of this Agreement or of a subcontract, provided that the Owner receives proper authorization from the State of Florida in the form of a Technical Assistance Advisement as set forth in Florida Administrative Code, Rule 12-11.003. Any materials purchased by the Owner shall be referred to as "Owner Purchased Materials" and the responsibilities of both the Owner and the Construction Manager relating to such Owner Purchased Materials shall be governed by the terms and conditions of this Article, which shall take precedence over other conditions and terms of this Agreement where inconsistencies or conflicts exist.
3. The Owner will issue its own purchase orders directly to a vendor. The Owner's Purchase Order shall contain or be accompanied by the Owner's exemption certificate and must include the Owner's name, address and exemption number with issue and expiration date shown. The materials shall be purchased from the vendors and suppliers selected by the Construction Manager or subcontractor for prices negotiated by the Construction Manager or subcontractor, as applicable. The Construction Manager will provide all the necessary information for preparation of the purchase orders by the Owner and will coordinate the purchase of the materials in a timely manner so as to not negatively impact the performance of the construction activity of the Project.
4. The subcontract amount shall be reduced by the net, undiscounted amount of these purchase orders, plus all sales taxes. Issuance of the purchase orders by the Owner shall not relieve the subcontractor or the Construction Manager of any of their responsibilities regarding material purchases, or installation, with the exception of the payments for the material so purchased. The Construction Manager and the subcontractor shall remain, with respect to materials, supplies and equipment, fully responsible for coordination, correct quantities ordered, submittals, protection, storage, scheduling, shipping, security, expediting, receiving, installation, cleaning and the management of all applicable warranties.
5. As Owner Purchased Materials are delivered to the jobsite, the Construction Manager, as Owner's representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the Owner or Construction Manager may require. The Construction Manager, as Owner's representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The vendor will then forward the invoice

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to the Owner through the Construction Manager for payment. The invoice shall be thereupon furnished to the Owner for processing and payment in the same manner that all other Owner invoices are processed. The Owner shall have the right to assign Owner personnel to verify and audit the accuracy of all Direct Purchase documents.

6. Notwithstanding the transfer of Owner Purchased Materials by the Owner to the Construction Manager's possession, the Owner shall retain title to any and all Owner Purchased Materials.
7. The Owner shall purchase and maintain insurance which shall be sufficient to protect against any loss of or damage to Owner purchased equipment, materials or supplies. Such insurance shall cover the value of any Owner Purchased Materials not yet incorporated into the Project from the time the Owner first takes title.
8. The material supplier may be required to provide a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the Owner and the Construction Manager. If a supply bond is required, the cost of the bond will be added to the amount of the Purchase Order. The premium cost for this supply bond shall be included in the bid price. Verifying that a designated material supplier can furnish a supply bond, if required, will be the responsibility of the Construction Manager. Owner reserves the right to waive the requirement of providing a supply bond at the discretion of Owner.
9. If the State of Florida assesses any sales tax penalties and/or interest against the Construction Manager or any of its subcontractors or material suppliers relating to the direct acquisition of materials and/or equipment by Owner as authorized by this paragraph, such taxes, penalties, interest and/or any legal and administrative fees expended by the Construction Manager as a direct result of any action or assessment made by the State of Florida, shall be reimbursed by Owner to the Construction Manager in a prompt and reasonable manner and shall not be considered a Project Cost.

18.2 Sales Tax Exempt Purchasing Procedures for Public Projects:

1. The Construction Manager has included Florida sales tax and other applicable taxes in its bid for material, supplies and equipment. The Owner, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in any subcontractor's bid and/or contract.
2. Any equipment, materials or supplies directly purchased by the Owner that are included in the Construction Manager's contract or any subcontract shall be referred to as Owner Purchased Materials and the responsibilities of both the Owner and the subcontractor relating to such Owner Purchased Materials shall be governed by these procedures.

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3. Material suppliers shall be selected by the Construction Manager or subcontractor, as applicable.
4. Owner purchasing of construction materials, if selected, will be administered on a deductive Change Order basis and the contract amount shall be reduced by the net undiscounted amount of the purchase orders issued by the Owner, plus all sales tax included.
5. The Construction Manager shall provide a list of all intended suppliers, vendors and materialmen for consideration as Owner Purchased materials with a description of the materials to be supplied, estimated quantities and prices. This information shall be submitted to the Owner as soon as practicable.
6. The Construction Manager or subcontractors, as applicable, shall prepare a purchase order requisition form in a form acceptable to the Owner and the Construction Manager, to specifically identify the materials, which Owner has, at its sole option, elected to purchase directly. The purchase order requisition form shall include:
 - A. the name, address, telephone number and contact person for the material supplier;
 - B. manufacturer or brand, model or specification number of the item;
 - C. estimated quantity needed;
 - D. the price quoted by the supplier for the materials identified therein;
 - E. any sales tax associated with such quote; and
 - F. delivery dates
7. Construction Manager or subcontractor shall include reference to any terms and conditions, which have been negotiated with the vendors, such as payment terms, warranties, retainage and the like. The purchase order requisition forms are to be submitted to the Owner's Representative no less than seven (7) days prior to the need for ordering such Owner Purchased Materials, in order to provide sufficient time for Owner review and approval and to assure that such directly purchased materials may be directly purchased by Owner and delivered to the Project site without any delay to the Project.
8. After receipt of the purchase order requisition form, Owner shall prepare the Purchase Order for equipment, materials or supplies which the Owner chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Construction Manager or subcontractor, less any sales tax associated with such

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price. Promptly upon receipt of each Purchase Order, the Construction Manager shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. The Owner's Purchase Orders shall be accompanied by the Owner's exemption certificate and must include the Owner's name, address, and exemption number with issue and expiration date shown.

9. In conjunction with the execution of the Purchase Orders, by the suppliers, one or more deductive Change Orders shall be issued, referencing the full value of all Owner Purchased Materials to be provided by each supplier from whom the Owner elected to purchase material directly, plus all sales tax savings associated with such materials in the Construction Manager's price or subcontractor's bid.
10. Construction Manager shall be fully responsible for all matters relating to the receipt of materials furnished by the Owner in accordance with these procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss or damage to equipment and materials following acceptance of items by the Owner. The Construction Manager shall coordinate delivery schedules, sequence of delivery, loading orientation and other arrangements normally required for the particular materials furnished. The Construction Manager shall provide all services required for the unloading, handling and storage of materials through installation. The Construction Manager agrees to indemnify and hold harmless the Owner from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of the Construction Manager.
11. As Owner Purchased Materials are delivered to the jobsite, the Construction Manager, as Owner's representative, shall visually inspect all shipments from the suppliers and approve the vendor's invoice for material delivered. The Construction Manager shall assure that each delivery of Owner Purchased Material is accompanied by documentation adequate to identify the purchase order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the purchase order, together with such additional information as the Owner or Construction Manager may require. The Construction Manager, as Owner's representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The vendor will then forward the invoice to the Owner through the Construction Manager for payment. The invoice shall be thereupon furnished to the Owner for processing and payment in the manner all other Owner invoices are processed. The Owner shall have the right to assign Owner personnel to verify and audit the accuracy of all Direct Purchase documents.
12. The Construction Manager shall ensure that Owner Purchased Materials conform to the Specifications, and determine prior to incorporation into the work if such materials are patently defective and whether such materials are identical to the

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materials ordered and match the description on the bill of lading. If the Construction Manager discovers defective or nonconformity in the Owner Purchased Material, upon such visual inspection, the Construction Manager shall not utilize such nonconforming or defective materials in the work, shall promptly take action to remedy the defect or nonconformance so as not to delay the Project and shall promptly notify the vendor of the defective or non-conforming condition in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Construction Manager shall notify the Owner of such occurrence. If the Construction Manager fails to perform such inspection and otherwise incorporates defective or nonconforming Owner Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, the Construction Manager shall be responsible for all damages to the Owner resulting from the incorporation of such materials into the Project, including liquidated or delay damages.

13. The Construction Manager shall maintain records of all Owner Purchased Materials it incorporates into the work from the stock of Owner Purchased Materials in its possession. The Construction Manager shall account monthly to the Owner for any Owner Purchased Materials delivered into the Construction Manager's possession, including portions of all such materials, which have been incorporated into the work.
14. The Construction Manager shall be responsible for obtaining and managing all warranties and guarantees for all materials and products. All repairs, maintenance or damage repair calls shall be handled by the Construction Manager for resolution with the appropriate supplier or vendor.
15. Notwithstanding the transfer of Owner Purchased Materials by the Owner to the Construction Manager's possession, the Owner shall retain title to any and all Owner Purchased Materials.
16. The transfer of possession of Owner Purchased Materials from the Owner to the Construction Manager shall constitute a bailment for mutual benefit of the Owner and the Construction Manager. The Owner shall be considered the bailor and the Construction Manager the bailee of the Owner Purchased Materials. Owner Purchased Materials shall be considered returned to the Owner for purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the project. The Construction Manager shall have the duty to safeguard, store and protect all Owner Purchased Materials.
17. The Owner shall purchase and maintain insurance which shall be sufficient to protect against any loss of or damage to Owner Purchased equipment, materials or supplies. Such insurance shall cover the full value of any Owner Purchased Materials not yet incorporated into the Project from the time the Owner first takes title.

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18. The Owner shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, Owner Purchased Materials.
19. On a monthly basis, the Construction Manager shall be required to review invoices submitted by all suppliers of Owner Purchased Materials delivered to the Project site during that month and either concur or object to the Owner's issuance of payment to the suppliers, based upon the Construction Manager's records of materials delivered to the site and any defects in such materials.
20. In order to arrange for the prompt payment to the supplier, the Construction Manager shall provide the Owner with a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items and such other documentation as may be reasonably required by the Owner. Upon receipt and verification of the appropriate documentation, the Owner shall prepare a check drawn to the supplier based upon the receipt of data provided. The check will be released, delivered and remitted directly to the supplier. The Construction Manager agrees to assist the Owner to immediately obtain partial or final release of lien waivers as appropriate.
21. At the end of the Project, any refund for surplus materials returned to suppliers plus applicable sales tax savings amounts shall be credited with an additive Change Order to the applicable subcontractor agreement with the Construction Manager. Salvage materials shall be the property of the Owner and stored or removed from the site by the Construction Manager at the Owner's direction.

ARTICLE 18 MISCELLANEOUS

18.1 Harmony:

1. The Construction Manager is advised and hereby agrees that it will exert every reasonable and diligent effort to assure that all labor employed by the Construction Manager and its Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project.
2. The Construction Manager further agrees that the above provision will be included in all contracts with the subcontractors; however, said provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization, the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

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18.2 Dispute Resolution:

1. All claims, disputes and other matters in question, hereinafter referred to as a "Controversy", between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof shall be initially submitted to mediation if mutually agreeable in accordance with the Construction Mediation Rules of the American Arbitration Association ("AAA") or any other mutually agreeable mediation firm.
2. Should either the Owner or the Construction Manager feel it necessary and appropriate to take any legal action to enforce any of the terms or conditions of this Agreement, then each party shall be responsible for its own attorney's fees and costs associated with such litigation.

18.3 Construction Manager's Project Records:

The Construction Manager's Project records shall be maintained for the minimum period required by state and federal law, and shall be made available to the Owner or its authorized representative at mutually convenient times.

18.4 Consequential Damages:

The parties mutually waive all claims for consequential damages, except to the extent paid for by insurance maintained for this project.

18.5 Public Records:

1. Pursuant to Florida Statutes, Section 119.0701:

IF YOU HAVE QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES, CHAPTER 119, TO YOUR DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY'S/OWNER'S CUSTODIAN OF PUBLIC RECORDS:

**CITY CLERK: GWEN JOHNS
510 NORTH BAKER STREET
MOUNT DORA, FL 32757
(352) 735-7126
JOHNSG@CITYOFMOUNTDORA.COM**

2. Construction Manager agrees to comply with public records laws, specifically to:
 - A. Keep and maintain public records required by the City/Owner to perform the services set forth herein.

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- B. Upon request from the City's/Owner's custodian of public records, provide the City/Owner with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statutes, Chapter 119, or as otherwise provided by law.
- C. Ensure that public records which 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 City/Owner.
- D. Upon completion of the contract, transfer, at no cost to the City/Owner, all public records in possession of the Construction Manager or keep and maintain public records required by the City/Owner to perform the services set forth herein. If the Construction Manager transfers all public records to the City/Owner 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 City/Owner, upon request from the City's/Owner's custodian of public records, in a format that is compatible with the information technology systems of the City/Owner.

18.6 Severability:

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

18.7 Waiver:

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement or to exercise any right or option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but same shall remain in full force and effect.

18.8 Notice:

The parties hereto agree and understand that written notice, mailed or delivered to the last known mailing address, shall constitute sufficient notice to the Owner and the Construction

ATTACHMENT #1

Manager. All notices required and/or made pursuant to this Agreement to be given to the Owner and the Construction Manager shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

Owner: City of Mount Dora
Attention: City Manager
510 N. Baker Street
Mount Dora, Florida 32757

with copy to: City Attorney
Bell & Roper, P.A.
2707 E. Jefferson Street
Orlando, Florida 32803

Construction Manager: Wharton-Smith, Inc.
750 Monroe Road
Sanford, Florida 32771

18.9 Modification:

The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

18.10 Headings:

All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit, or change the provisions contained in such sections, exhibits, and attachments.

18.11 Joint Authorship:

This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

18.12 Equal Opportunity Employer:

The Construction Manager is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The Construction Manager will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws. During the performance of this contract, the Construction Manager agrees as follows:

1. The Construction Manager will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender

ATTACHMENT #1

identity or national origin. The Construction Manager will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Construction Manager agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The Construction Manager will, in all solicitations or advertisements for employees placed by or on behalf of the Construction Manager, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.
3. The Construction Manager will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by the employer or is consistent with the contractor's legal duty to furnish information.
4. The Construction Manager will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Construction Manager's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Construction Manager will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
6. The Construction Manager will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

ATTACHMENT #1

7. In the event of the Construction Manager's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Construction Manager may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
8. The Construction Manager will include the provisions of paragraphs (1) through and including this paragraph (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Construction Manager will take such action with respect to any subcontract or purchase order as necessary.

18.13 Compliance with the Davis-Bacon Act:

1. To be determined at GMP, all transactions regarding this Agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Construction Manager shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
2. The Construction Manager is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

18.14 Compliance with the Copeland "Anti-Kickback" Act:

1. The Construction Manager shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. The Construction Manager shall ensure that any subcontracts contain the above clause and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors include these clauses in any lower tier subcontracts. The Construction Manager shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all such contract clauses.
3. A breach of the contract clauses above may be grounds for termination of the Agreement.

ATTACHMENT #1

18.15 Clean Air Act:

1. The Construction Manager agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Construction Manager agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Construction Manager agrees to include these requirements in each subcontract exceeding \$150,000.00, financed in whole or in part with Federal assistance provided by FEMA.

18.16 Applicable Licensing and Compliance with all Laws:

The Construction Manager, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein. The Construction Manager, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county and municipal governments, as well as their respective departments, commissions, boards and officers, which are in effect at the time of execution of this Agreement or are adopted at any time following the execution of this Agreement, including any required processes, procedures or actions necessary to assist the Owner with reimbursement or enable the Owner to seek reimbursement from FEMA if the need arises. Notwithstanding any language herein to the contrary, in the event that any laws, ordinances, judicial decisions, orders, or regulations of the federal, state, county, or municipal governments change after execution of this Agreement, Construction Manager shall be entitled to an equitable adjustment in time as applicable and price to the extent the Construction Manager's direct costs, not including labor, are affected. Any such adjustment will be determined at the time of such an occurrence and there shall only be a construction phase fee on this item if it exceeds two percent (2%) for each separate GMP.

18.17 Use of City Logo, Name, Seal, Flag and/or City Letterhead:

The Construction Manager may only use the City of Mount Dora's name, logo seal and/or flag with the express written permission of the City and consistent with any City policy related to use of the same. In addition, the Construction Manager shall not use the City's Letterhead for issuing any correspondence, for any purpose, without the express written consent of the Owner.

ATTACHMENT #1

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective the 7 day of April, 2020.

CITY OF MOUNT DORA

COMMUNITY REDEVELOPMENT AGENCY
OF THE CITY OF MOUNT DORA

NORTHEAST COMMUNITY
REDEVELOPMENT AGENCY OF THE CITY
OF MOUNT DORA

Catherine T. Hoechst
CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

For the use and reliance of the City of Mount Dora, the CRA of the City of Mount Dora and the Northeast CRA of the City of Mount Dora only. Approved as to form and legal sufficiency.

Gwen Keough-Johns on behalf of
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

Sherry G. Sulphern
Sherry G. Sulphern
City Attorney

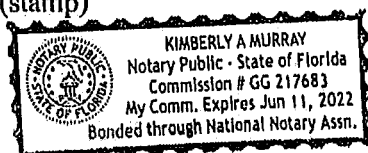
WHARTON-SMITH, INC.

By: Darin A. Crafton
Print: Darin A. Crafton
Title: Executive Vice President

STATE OF FLORIDA
COUNTY OF Seminole

The foregoing instrument was acknowledged before me by means of ☒ physical presence or [] online notarization of Darin A. Crafton, the Executive VP of Wharton-Smith, Inc., who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Construction Manager, who is personally known to me or who produced _____ as identification, and who did/did not take an oath this 7th day of April, 2020.

(stamp)



Kimberly A. Murray
NOTARY PUBLIC, State of Florida

ATTACHMENT #1

EXHIBIT "A"

CITY OF MOUNT DORA/CRA/Northeast CRA TASK AUTHORIZATION

In accordance with the terms and conditions of the Agreement between _____ (Construction Manager) and the City of Mount Dora/CRA/Northeast CRA, dated _____, the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors attached hereto.

City Project Manager:

Construction Manager Contact:

Project Name:

Project Number:

NOTE: THE CONTRACTOR MAY NOT BEGIN WORK UNTIL THIS FULLY SIGNED TASK AUTHORIZATION IS DELIVERD TO THE CONTSTRUCTION MANAGER.

SUMMARY OF WORK TO BE COMPLETED	
<u>Each Task Authorization package shall include:</u> Exhibit A – Scope of Work Exhibit B – Price/GMP Breakdown Exhibit C – Basic Schedule Exhibit D – Construction Team Exhibit E – Construction Manager's Staff Exhibit F – Sub-Contractors	
Recommended By: Print: _____ Date: _____ Signature: _____	
Reviewed By (if applicable): Print: _____ Date: _____ Signature: _____	
CONTRACTOR ACCEPTANCE	
Print Name:	CITY APPROVAL
Title:	Print Name:
Signature:	Title:
Date:	Signature:
	Date:

ATTACHMENT #1

EXHIBIT "B" CITY OF MOUNT DORA/CRA/Northeast CRA AMENDMENT TO TASK AUTHORIZATION

In accordance with the terms and conditions of the Agreement between _____ (Construction Manager) and the City of Mount Dora, dated _____, , and the Task Authorization dated _____ (Original Task Authorization), the parties hereto agree to the scope of work, pricing/GMP, schedule, construction team and subcontractors set forth herein. To the extent of any conflict between this Amendment and the Original Task Authorization, this Amendment shall prevail.

Amendment Number:

City Project Manager:

Construction Manager Contact:

Project Name:

Project Number:

NOTE: THE CONTRACTOR MAY NOT BEGIN WORK UNTIL THIS FULLY SIGNED AMENDMENT TO TASK AUTHORIZATION IS DELIVERD TO THE CONTSTRUCTION MANAGER.

SUMMARY OF WORK TO BE COMPLETED	
<u>Each Task Authorization package shall include:</u> Exhibit A – Scope of Work Exhibit B – Price/GMP Breakdown Exhibit C – Basic Schedule Exhibit D – Construction Team Exhibit E – Construction Manager's Staff Exhibit F – Sub-Contractors	
Recommended By: Print: _____ Date: _____ Signature: _____	
Reviewed By (if applicable): Print: _____ Date: _____ Signature: _____	
CONTRACTOR ACCEPTANCE	
Print Name:	Print Name:
Title:	Title:
Signature:	Signature:
Date:	Date:

ATTACHMENT #1

EXHIBIT "C" CERTIFICATE OF SUBSTANTIAL COMPLETION

PROJECT NAME:
PROJECT ADDRESS:
PROJECT NUMBER:
CONTRACT DATE:
CONSTRUCTION MANAGER:

TO OWNER:

Name
Address

TO CONSTRUCTION MANAGER:

Name
Address

Copy to:

___ Architect
___ Engineer
___ Field
___ Other

Project or portion of Project Designated for Partial Occupancy or Use:

The work performed on the Project under the Agreement has been reviewed and found, the Architect's best knowledge, information and belief to be substantially complete. Substantial Completion is the stage in the progress of the work when the work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the work for its intended use. The date of substantial completion of the Project or portion designated above is the date of issuance established by this Certificate of Substantial Completion, which is also the date of commencement of applicable warranties required by the Contract Documents as stated below:

Architect

By: _____

Date of Substantial Completion: _____

Print: _____

(Warranty Date of Commencement)

A Punch List of items to be completed or corrected is attached hereto. The failure to include any items on such Punch List does not alter the responsibility of the Construction Manager to complete all work in accordance with the Contract Documents. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment.

Cost Estimate of Work that is incomplete or defective: _____

The Construction Manager will complete or correct the work on the Punch List within ____ days from the above date of Substantial Completion.

Construction Manager

By: _____

Date: _____

Print: _____

The Owner hereby accepts the work or designated portions as substantially complete and will assume full possession at _____ am/pm on _____, 20__.

Owner

By: _____

Date: _____

Print: _____

The responsibilities of the Owner and Construction Manager for security, maintenance, utilities, damage and insurance are as follows:

ATTACHMENT #1

EXHIBIT "D" CERTIFICATE OF FINAL COMPLETION

PROJECT NAME:
PROJECT ADDRESS:
PROJECT NUMBER:
CONTRACT DATE:
CONSTRUCTION MANAGER:
SUBSTANTIAL COMPLETION DATE:
FINAL PUNCHLIST INSPECTION DATE:

The Construction Manager hereby certifies that the work and all other requirements have been completed in accordance with the Contract Documents, including, but not limited to:

___ completion of all discrepancies (Punchlist Items) noted at the time of Substantial Completion
___ submission of "as-built" plans and specifications, shop drawings, and other record documents
___ completion of all Owner training – submission of all contractually required stock and spare parts
___ submission of all final Operation & Maintenance documents and other closeout deliverables
___ submission of consent of Builder's surety
___ submission and approval of all remaining change order proposals, claims, and applications for payment
___ payment of all costs incurred for equipment, material, labor and services against the Project

The Construction Manager further certifies that:

___ no liens have been attached against the Project
___ no suits are pending by reason of work on the Project under the Contract for Construction
___ all Workers' compensation claims are covered by Workers' Compensation Insurance as required by law
___ all insurance required of the Construction Manager beyond final payment, if any, is in effect and will not be cancelled or allowed to be expired without notice to the Owner
___ all public liability claims are adequately covered by insurance and that the Construction Manager shall save, protect, defend, indemnify and hold the Owner harmless from and against any and all claims which arise as a direct or indirect result of any transaction, event, occurrence, or omission related to performance of the work on the Project contemplated under said Contract for Construction.

Upon execution below, this Project will be considered complete. This consideration does not relieve the Construction Manager from its post-construction responsibilities, including correction of discrepancies noted during the first year after Substantial Completion, warranty issues, latent defects, and other requirements of the Contract or under Florida law.

Construction Manager

By: _____

Date: _____

Print: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 201_, by _____, as _____ of Evergreen Construction Group of Florida, LLC, who is authorized to bind Evergreen Construction Group of Florida, LLC, and who is personally known to me OR has produced _____ as identification.

(stamp)

NOTARY PUBLIC, State of Florida

Recommend By:
Architect

By: _____

Date: _____

Print: _____

Accepted By:
Owner

By: _____

Date: _____

Print: _____

ATTACHMENT #1

EXHIBIT “E” Partial Pay Request Form

APPLICATION AND CERTIFICATE FOR PAYMENT

AIA DOCUMENT G703 (Instructions on reverse side)

TO OWNER : PROJECT: APPLICATION NO.: 1 Distribution to: OWNER 1 of 2 PAGES
PERIOD TO: 1/0/1900
PROJECT NOS.: CONTRACT DATE: 1/0/1900 ARCHITECT
W/S JOB NO.: 0 CONTRACTOR

ATTN:
FROM (CONTRACTOR): VIA ARCHITECT:
WHARTON-SMITH, INC.
750 Monroe Rd.
Sanford, FL 32771
CONTRACT FOR:

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$
2. Net change by Change Orders \$ 0.00
3. CONTRACT SUM TO DATE (Line 1 + 2) \$ 0.00
4. TOTAL COMPLETED & STORED TO DATE \$ 0.00
(Column G on G703)
5. RETAINAGE:
0.00 of Completed Work 0.00
(Columns D + E on G703)
0.00 of Stored Material 0.00
(Column F on G703)
Total Retainage (Line 5a + 5b or
Total in Column I of G703) \$ 0.00
6. TOTAL EARNED LESS RETAINAGE \$ 0.00
(Line 4 less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT \$
(Line 6 from prior Certificates)
8. CURRENT PAYMENT DUE \$ 0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE \$ 0.00
(Line 3 less Line 6)

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total changes approved this Month		
TOTALS		
NET CHANGES by Change Order		

The undersigned Contract certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payments were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:
By: Ronald F., Davoli -President/CEO Date: January 6, 2020

State of: FLORIDA
County of: SEMINOLE
Subscribed and sworn to before me this January 6, 2020

Notary Public:
My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and data comprising the above application, the Architect certifies to the Owner that the Work has progressed to the point indicated; that to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents; and that the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED
(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT:
By: Date:
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only at the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CONTINUATION SHEET

AIA DOCUMENT G703

2 of 2 PAGES

AIA DOCUMENT G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing
Contractor's signed certification is attached.
In tabulations below, amounts are stated to the nearest dollar.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO: 1
APPLICATION DATE: 1/6/2020
PERIOD TO: 1/0/1900
ARCHITECT'S PROJECT NO:

ATTACHMENT #1

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	H % (G/C)	I BALANCE TO FINISH (C-G)	M RETAINAGE (IF VARIABLE RATE)
			FROM PREVIOUS APPLICATION (D+E)	THIS PERIOD					
1		-		-		-	#DIV/0!	-	0.00
2				-		-	#DIV/0!	-	0.00
3				-		-	#DIV/0!	-	0.00
4				-		-	#DIV/0!	-	0.00
5				-		-	#DIV/0!	-	0.00
6				-		-	#DIV/0!	-	0.00
7				-		-	#DIV/0!	-	0.00
8				-		-	#DIV/0!	-	0.00
9				-		-	#DIV/0!	-	0.00
10				-		-	#DIV/0!	-	0.00
11				-		-	#DIV/0!	-	0.00
12				-		-	#DIV/0!	-	0.00
13				-		-	#DIV/0!	-	0.00
14				-		-	#DIV/0!	-	0.00
15				-		-	#DIV/0!	-	0.00
16				-		-	#DIV/0!	-	0.00
17				-		-	#DIV/0!	-	0.00
18				-		-	#DIV/0!	-	0.00
19				-		-	#DIV/0!	-	0.00
20				-		-	#DIV/0!	-	0.00
21				-		-	#DIV/0!	-	0.00
				-		-	#DIV/0!	-	0.00
	GRAND TOTALS	\$ -	\$ -	\$ -	\$ -	\$ -	#REF!	\$ -	

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**CITY OF MOUNT DORA
TASK AUTHORIZATION FORM**

In accordance with the terms and conditions of the Agreement between Faden Builders, Inc. (Construction Manager) and the City of Mount Dora, dated April 7, 2020, the parties hereto agree to the scope of work, pricing, schedule and subcontractors set forth herein.

Project Name: Gilbert Park Site Work
Project Amount: \$ \$65,316.59
Budget Account Number: 310-5555-580.63-01-PK2413
City Project Manager: Troy Shonk
Contractor: Faden Builders, Inc.
Contractor Project Manager: Philip Rapalje

NOTE: THE CONTRACTOR MAY NOT BEGIN WORK UNTIL THIS FULLY SIGNED TASK AUTHORIZATION AND A CITY PURCHASE ORDER ARE DELIVERD TO THE CONTRACTOR.

SUMMARY OF WORK TO BE COMPLETED

Each Task Authorization package shall include:

- Exhibit A** – Scope of Work
- Exhibit B** – Sub-Contractors
- Exhibit C** – Schedule
- Exhibit D** – Compensation

Recommended By:

Print: Troy Shonk
Signature: Troy Shonk

Date: 4-12-24

Reviewed By:

Print: Troy Shonk
Signature: Troy Shonk

Date: 4-12-24

CONTRACTOR ACCEPTANCE

CITY APPROVAL

Print Name: Todd M. Faden

Print Name:

Signature:

DocuSigned by:
Todd M. Faden
EA608BA3BC674ED...
4/13/2024

Signature:

Date:

Date:



4/5/2024

Faden Proposal No. 24-149

Troy Shonk
Parks and Recreation Director
City of Mount Dora
510 N Baker Street
Mount Dora, Florida 32757

RE: Mount Dora Gilbert Park Site Work

Scope Summary: Provide labor and equipment to install new landscape wall at west and north side of playground equipment to replace the existing wood wall. Remove existing concrete steps and install new steps with handrail.

Exhibit A: Scope of Work

1. General Conditions
 - a. Project Management and Supervision
 - b. Mobilization/Demobilization
2. Site Prep / Demolition
 - a. Site Layout
 - b. Remove existing deteriorated wood landscape wall
 - c. Remove concrete steps and railing
3. New Construction
 - a. Install new landscape wall and continue to steps
 - b. Steps with wall system and pavers
 - c. Backfill and grading
 - d. 1,200 SF of Bahia sod
 - e. 6 yards of playground mulch from new wall to sidewalk

Qualifications and Exclusions:

1. Work to be completed 1st shift, M-F, no overtime is included.
2. The scope is limited to the items listed in Exhibit A. Any other added scope items or items required by the AHJ for permitting are excluded and will be charged as a change order.
3. Engineering is excluded.
4. Permit and associated fees are excluded.
5. Replacement/repair of gates are excluded.
6. Relocation of existing utilities, if required, is excluded.
7. Compaction testing is excluded.
8. Irrigation of new sod by owner.
9. Painting and staining are excluded.



Exhibit B: Price/GMP Breakdown

1. General Conditions	\$ 6,507.89
2. Demolition	\$ 2,293.77
3. Site work	\$ 3,454.04
4. Landscape wall and steps	\$ 27,767.20
5. Railing and fence	\$ 12,105.26
Subtotal	\$ 52,128.17
General Liability Insurance	\$ 677.67
Contingency (10%)	\$ 5,212.82
Contractor's Fee	\$ 7,297.94
Permit Fee	excluded
Performance and Payment Bond	excluded
Gross Maximum Price (GMP):	\$ 65,316.59

Alternate Option: Omit steps and railing from scope (deduct \$11,287.00)

The prices included in this proposal are valid for 30 days.

Exhibit C: Basic Schedule

Procurement will begin promptly after the issuance of the Purchase Order.

Proposed duration schedule:

- 2-3 weeks for material procurement and submittals
- 3 workdays for mobilization and demolition
- 5 workdays for new construction
- 3 weeks for railing fabrication and installation
- 2 workdays for demobilization

Project Management Information System (PMIS) will not be required for this project.



Exhibit D: Construction Team

Owner's Representative: Troy Shonk (City of Mount Dora)
Construction Manager: Todd Faden (Faden Builders)

Exhibit E: Construction Manager's Staff

Principal: Todd Faden
Project Manager: Philip Rapalje
Site Superintendent: Scott Bassett
Staff Accountant: Helen Johnson
Safety Director: Andre Harris
Administrative Assistant: Nicole Rakes

Exhibit F: Sub-Contractors

N/A

Please feel free to contact me with any questions. We look forward to working with you.

Best regards,

A handwritten signature in blue ink that reads "PHILIP RAPALJE".

Philip Rapalje
Faden Builders, Inc.



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: Request Approval of Pole Attachment Agreement between City of Mount Dora and Comcast Cable Communications Management, LLC Related to Leasing Attachment Space on Distribution Poles

Introduction:

This request is for City Council to approve the Pole Attachment Agreement between the City of Mount Dora and Comcast Cable Communications Management, LLC allowing Comcast to attach cables, wires, and other equipment to Mount Dora's distribution poles.

Discussion:

On May 30, 1973, City Council approved a Pole Rental Agreement between the City of Mount Dora and Leesburg Cablevision, Inc., now Comcast, which allows Comcast to utilize space on the City of Mount Dora's poles within the electric service area. The City Electric Utility as well as Comcast agreed upon the need to have a new agreement to reflect new processes, safety measures, code requirements, and rate change. The following are some of the updates that were part of the new agreement:

- Make sure all safety measures are met.
- Allow for a bulk permitting process if large numbers of poles are requested for use.
- Allow for an engineering study as needed to make sure clearance and wind loading calculations meet code.
- Have the ability to negotiate the cost of required pole upgrades, if necessary, with the Licensee.
- Allow for an increase in the license fee, which was approved by the Council in June 2021. This increase reflects the added cost of maintenance and infrastructure improvements to the City's poles.

Budget Impact:

Electric Revenues are projected to increase by \$15,268.50 for future years.

Strategic Impact:

Goal 2 Infrastructure

By entering into this agreement, it will allow the City of Mount Dora to maintain and operate a sustainable city that will ensure its longevity.

Recommendation:

City Council approve the Pole Attachment Agreement between the City of Mount Dora and Comcast Cable Communications Management LLC, which allows for leasing space on Mount Dora's distribution poles.

Attachment(s):

1. SIGNED Mount Dora -Comcast Pole Attachment Agreement (pab rev)
2. Addendum 1 Mt Dora (Signed)

Prepared by: Liz Massar, Administrative Coordinator
Reviewed by: Steve Langley, Electric Utility Director
Aneta Barton, Budget Director
City Attorney, City Attorney
Jeanann Hand, City Clerk
Vince Sandersfeld, Acting City Manager

Approved - 2/26/2024
Approved - 2/26/2024
Approved - 4/23/2024
Approved - 4/23/2024
Final Approval - 4/23/2024

POLE ATTACHMENT AGREEMENT

THIS POLE ATTACHMENT AGREEMENT (the “Agreement”) effective as of the 1st day of July, 2023 (“Effective Date”) between the City of Mount Dora (the “Licensor”) and Comcast Cable Communications Management LLC, (the “Licensee”).

WITNESSETH

WHEREAS, Licensee proposes to erect, attach, and install aerial cables, wires, and/or associated equipment on utility poles owned by Licensor and to maintain Licensee’s existing attachments to Licensor’s utility poles in the following communities: Mount Dora and Lake County, and

WHEREAS, Licensor is willing to grant a license to Licensee to maintain its attachments and permit the erection, attachment, and installation of said cables, wires and/or equipment to Licensor’s utility poles where, in Licensor’s judgment, such joint use will not interfere with Licensor’s own utility service requirements, including considerations of safety.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto do hereby mutually covenant and agree as follows:

1. **Grant of License.** Subject to the terms herein contained, Licensor hereby grants Licensee a non-exclusive license to erect, attach, install and maintain cables, wires, and/or equipment (“Attachments”) to Licensor’s utility poles (“Poles”). For all new attachments to be attached to Licensor’s Poles after the Effective Date, Licensee shall file an application (“Application”), in the format described in **Exhibit “A,”** attached hereto, and Licensor shall provide its written response to the Application by granting a license or providing the reasons for denial within thirty (30) days of receipt. In the event of a large-scale attachment project of 1,000 attachments or more, the licensee may use the Bulk Permit Process described in **Exhibit “B”** A permit Application shall not be required for Licensee’s existing attachments (“Existing Attachments”) made prior to the Effective Date or service drops and risers. Licensor’s license granted hereunder extends to Licensee’s Existing Attachments. Notwithstanding the foregoing, the Licensor reserves the reasonable right to deny Licensee’s application if it materially and negatively impacts Licensor’s core electric utility services including, but not limited to, all questions of economy, safety, and future needs of the Licensor based upon a bona fide plan.

2. **Term and Termination.** The term of this Agreement shall be for ten (10) year(s), beginning as of the Effective Date (“Term”) unless earlier terminated in accordance with this Agreement. This Agreement shall thereafter automatically renew for additional one (1) year terms, unless or until terminated by either party upon at least six (6) months prior written notice to the other party. Upon termination of this Agreement, Licensee shall, at its own expense, within 180

days of termination, remove the Attachments from the Poles of Licensor. In the event Licensor must remove any Attachments from its poles for any reason, Licensee shall bear the cost of such removal.

3. **Rental Rate; Payment.** Effective July 1, 2023, and during the remainder of the Term of this Agreement, including any extensions thereof, Licensee shall pay to Licensor for the license granted under this Agreement an annual rent ("Rent") of (\$14.30) per pole to which Licensee maintains its Attachments during that year. Rent shall be payable annually on the 31st day of January each year (for Licensee's Attachments to Licensor's Poles during the immediately preceding year) during which this Agreement remains in effect. The license fee or Rent may be adjusted no more than one time each year, to be effective in the following year, provided the City provides notice of such increase, based upon CPI index for Electric Power Distribution PCU # 221122221122, to the Licensee by September 30 of the year prior to the increase.

Annual per pole rental payments shall be calculated based upon the number of poles on which there are Licensee Attachments on the first day of December each year during which this Agreement remains in effect. Licensor shall submit an invoice to Licensee no later than forty-five (45) days prior to January 31. The parties agree that initially Rent shall be based on a total of 1,735 Poles ("Baseline"); provided that either party may at its own expense, conduct a Pole Attachment inventory and in the event the number of Poles with Licensee's Attachments is greater or lesser than the Baseline, the number of Poles subject to Rent shall be adjusted accordingly and rent shall be based on such adjusted number from and after the date of such determination (or until the next inventory, as the case may be).

4. **No Conflict.** Licensor reserves to itself, its successors and assigns, the right to maintain its poles and to operate its facilities thereon in such manner as will best enable it to fulfill its own utility service requirements. Licensor expressly grants Licensee the right to access the area in and around Licensor's pole attachments and other pole facilities for the purpose of complying with the NESC and the terms of this Agreement. Licensee shall at its own expense attach, erect, install, maintain, and repair the Attachments in compliance with the National Electrical Safety Code (NESC), and all applicable laws (the "Specifications"). Existing Attachments that do not comply with the Specifications must be corrected at Licensee's sole expense, provided however this does not apply to Existing Attachments subject to grandfathering provisions of the NESC. Work that may be required by Licensor to bring Licensee's Attachments into compliance with the Specifications shall be completed at Licensee's sole expense. Prior to any such work being initiated, Licensor shall provide Licensee with a reasonable estimate of expected costs, and such estimate is to be paid by Licensee before work begins. After work begins, if Licensor believes that cost would be more than 20 percent of the estimate, Licensee shall receive notice of the overage. Licensee will have the option to proceed by paying the overage or notifying Licensor to stop the work.

The Attachments shall not conflict with the use of the utility poles by Licensor for its core utility service requirements. Licensee acknowledges responsibility for the safe conduct of its employees,

contractors, and agents in erecting, attaching, installing, maintaining, servicing, repairing or in any other way working in, around, or on the Attachments and Licensor's utility poles.

5. Maintenance of Attachments. Licensee shall at its own expense maintain the Attachments in a safe condition and in good repair, and in a manner which will not unreasonably interfere with Licensor's facilities. This shall include service drops no longer fit for service, being properly removed from Licensor's poles. Licensee shall exercise its commercially reasonable efforts to avoid damage to Licensor's utility poles and facilities, and the facilities and attachments of third parties.

Upon sixty (60) days' notice from Licensor, Licensee shall immediately and at its own expense, relocate, replace, repair or otherwise remove the Attachments, and transfer them, if required by Licensor for its core utility service requirements; otherwise, Licensor shall reimburse Licensee for its reasonable costs to so transfer its facilities. In case of an emergency, as determined in the reasonable discretion of Licensor, Licensor shall use commercially reasonable efforts to notify Licensee when such emergency requires the relocation of Licensee's Attachments, but in the event Licensor is unable to do so, Licensor may relocate, replace, repair or otherwise remove the Attachments, transfer them to substituted poles or perform any other work, maintenance, and/or repair in connection with the Attachments, and Licensee shall, on demand, reimburse Licensor for the reasonable expense thereby incurred by Licensor.

6. Replacement or Alteration of Poles. In the event that the Licensor's existing poles are inadequate to support or otherwise accommodate new Attachments proposed by Licensee, Licensee may request that Licensor make alterations to Licensor's poles or other accommodations including rearrangement of existing facilities attached to Licensor's poles or replacement of poles by supplying the relevant information to the Licensor. Licensee agrees that if replacement or other alteration of the poles is required in order to accommodate the Licensee's Attachments, Licensee shall pay the actual cost of such replacement or other alteration necessary to accommodate Licensee's Attachments, within forty-five (45) days of receipt of notice of such costs by Licensor. Licensor shall cause any necessary alterations to be completed within ninety (90) days of receipt of payment, and any necessary pole replacements to be completed within one hundred and twenty (120) days of receipt of payment. In the event that any Pole is unsuitable for the Attachments requested by Licensee, Licensor shall use reasonable efforts to provide an alternate pole route. Licensee agrees to bear the full expense of such alternative arrangements and shall reimburse Licensor for any and all actual costs and expenses incurred by Licensor in making such alternative arrangements within forty-five (45) days of receipt of notice of all reasonable related costs. Any strengthening of poles (guying) required to accommodate the Attachments of Licensee shall be provided by and at the expense of Licensee.

7. Work Orders. When Licensor receives applications from multiple Attachments, such applications shall be prioritized based upon the application first received by Licensor. Where applications are filed for the same pole and require rearrangements or replacements, Licensor shall endeavor to accommodate both requests and to allocate costs between the parties.

8. **Inspections.** Licensors reserves the right to inspect Licensee Attachments, at Licensors sole cost and expense, to ensure that such Attachments comply with the NESC and applicable law. In the event that Licensors discovers that any pole to which Licensees Attachments are attached is out of compliance with the NESC or applicable law, it shall notify Licensee in writing, which notice shall include an explanation of such non-compliance and the extent to which Licensees Attachments are implicated. If it is agreed that such non-compliance was caused by Licensees Attachments, Licensee shall promptly correct any such non-compliance it caused that is deemed to present a threat of property damage or personal injury; all such other non-compliance shall be designated for correction in accordance with the NESC.

9. **Licensees Authority.** Licensee shall secure any necessary consent from state or municipal authorities or from the owners of property to erect, attach, install, repair, service, and maintain the Attachments. Licensees Franchise Agreement with State of Florida Department of State shall be accepted as such evidence.

10. **Report of Damage.** Licensee and Licensors shall exercise special precautions to avoid damage to the facilities of the other party and each shall be responsible for any and all loss it causes to the other party's facilities and shall notify the other party promptly in the event it causes any such damage.

11. **Indemnification; Insurance.** Each party shall indemnify, defend, protect and save harmless the other (together with its parents, affiliates and subsidiaries and their officers, directors and employees) from and against any and all claims and demands for damages to property and injury or death to persons, including without limitation payments made under any workers' compensation law or under any plan for employee disability and death benefits, to the extent such claims and/or demands arise out of or were caused by the indemnifying party's negligence or willful misconduct. For the avoidance of doubt, it is the intent of the parties that where fault is determined to have been joint or contributory, principles of comparative fault will be followed and each party shall bear the proportionate cost of any losses attributable to such party's fault. Neither party shall be liable to the other for any interruption to service arising in any manner out of the use of Licensors poles hereunder. In addition to the foregoing Licensee shall during the term of this Agreement, carry commercial general liability insurance to protect Licensee as named insured and Licensors as additional insured hereto from and against any and all claims, demands, actions, judgments, costs, expenses and liabilities of every name and nature for which Licensee is responsible hereunder. The minimum amounts of such commercial general liability insurance against liability due to damage to property shall be at least Two Hundred Fifty Thousand Dollars (\$250,000.00) as to any one incident, and against liability due to injury or death at least in the amount of Five Hundred Thousand Dollars (\$500,000.00), and as to any one occurrence at least in the amount of One Million Dollars (\$1,000,000.00). Licensee shall also carry such insurance as will protect it from all claims under any workers' compensation laws in effect that may be applicable to it. All insurance required shall remain in force for the entire life of this Agreement and the company or companies issuing such insurance shall be licensed to provide such insurance

within the state where the Poles are located. Upon Licensor's request, Licensee shall submit to Licensor certificates evidencing said insurance.

12. Non-Exclusive License. Licensee recognizes that it holds a non-exclusive license to install, erect, attach, maintain, service and repair attachments and other facilities to Licensor's utility poles and that other licensors may seek to install attachments on the same poles desired by Licensee. No use, however extended, of Licensor's poles, under this Agreement, shall create or vest in Licensee any ownership or property rights in said poles, and Licensee's rights therein shall not be construed to compel Licensor to maintain any of Licensor's poles for a period longer than demanded by its own service requirements. Licensor shall not enter into an agreement with another attacher that interferes with Licensee's use of Licensor's poles under this Agreement.

13. Removal for Unauthorized Use.

Upon notice from Licensor to Licensee that the use of any Pole has been lawfully determined by a governmental authority or property owner that Licensor's facilities are not located in a valid utility easement or right-of-way, the permit covering the use of such Pole under this agreement shall immediately terminate and Licensee's System shall be removed promptly from the affected Pole by Licensee at the expense of Licensee (and in no event later than 30 days after receipt of such notice or as reasonably and technically feasible).

14. Termination; Assignment.

a. If Licensee shall fail to comply with any of the provisions of this Agreement, or shall default in any of its material obligations under this Agreement and shall fail within thirty (30) days' written notice from Licensor to correct such default or non-compliance, Licensor may, at its option, forthwith terminate this Agreement or in part, with respect to the attachments related to the underlying breach; provided that if cure cannot be reasonably completed within said thirty (30) days and Licensee commences and diligently prosecutes a cure within said thirty (30) day period, Licensee shall not be deemed in breach of this Agreement.

b. Licensee shall not assign this Agreement without Licensor's consent; provided that Licensee may assign this Agreement without necessity of consent, to any person acquiring all or substantially all of Licensee's assets or stock.

13. Notices. All notices or reports required or permitted hereunder shall be delivered personally or by U.S. Mail, registered or certified mail, postage prepaid, or by a reputable overnight delivery service to the following addresses of the respective parties:

To Licensor:	City of Mount Dora
	510 N. Baker Street
	Mount Dora, FL 32757
	CMOffice@cityofmountdora.com
	Attn: City Manager

To Licensee: Comcast Cable Communications Management LLC
1100 Northpoint Parkway, Suite 100
West Palm Beach, Fl.
Attn: VP, Engineering

With a copy of all legal notices to:

Comcast Cable Communications, LLC
One Comcast Center
1701 John F. Kennedy Blvd
Philadelphia, PA 19103
Attn: Cable General Counsel

Notices shall be effective upon receipt (or refusal of delivery or return unfound) if personally delivered, on the third business day following the date of mailing, if sent by U.S. mail, or upon sending, if sent by overnight courier, one day following deposit with the overnight delivery service. Any change of address of a party shall be promptly communicated in writing to the other party.

14. No Waiver; Effect of this Agreement.

a. Failure to enforce or to insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions but the same shall be and remain at all times in full force and effect. Nothing herein contained shall be construed as affecting the rights or privileges previously conferred by Licensor, by contract or otherwise, to others, not parties to this Agreement, to use any poles covered by this Agreement and Licensor shall have the right to continue and extend such rights or privileges.

b. This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof and shall supersede any prior agreements and understanding between the parties with respect to that subject matter. This Agreement may not be amended or modified except by a written instrument executed by each of the parties hereto.

15. Successors and Assigns. Subject to the provisions herein contained, this Agreement shall inure to the benefit of and be binding upon the respective legal representatives, successors and assigns of the parties hereto.

16. Headings; Captions. The headings and captions used in this Agreement are for convenience only and shall not be construed to limit or expand the terms of this Agreement.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed the day and year first above written.

LICENSOR: City of Mount Dora

By: _____

Its: _____

LICENSEE: Comcast Cable Communications
Management LLC.

By:  _____

Print name: Jeffery Buzzelli

As Its: Senior Vice President, Florida Region

EXHIBIT A

Application
And Permit for Attachment(s) to Mount Dora Poles

Name of Licensee: Comcast Cable Communications Management LLC

Contact name: _____

Billing address: _____

Phone: _____ Fax: _____

In accordance with the terms of Agreement, this application is hereby made for Licensee to make attachment(s) to the following poles(s), to be completed within _____ days.

Location(s): _____

Cable Descrip/ _____ Diameter _____

Requested Pole Accommodations: _____

Location(s): _____

Cable Descrip/ _____ Diameter _____

Requested Pole Accommodations: _____

See Attached Details ☐

Initials of Licensee's Authorized Representative: _____ Date: _____

FOR MOUNT DORA UTILITY USE ONLY:

License granted on _____, 20____, Subject approval of the following changes and rearrangements at an estimated cost to you of \$_____ payable in advance.

Licensor Signature: _____ Date: _____ Title: _____

The above changes and rearrangements approved and advance payment therefore enclosed.

By: _____ Date: _____

Mount Dora Inspection of New Attachments

By: _____

Date: _____

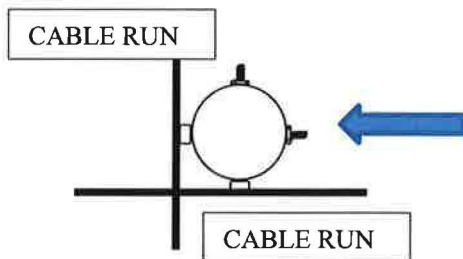
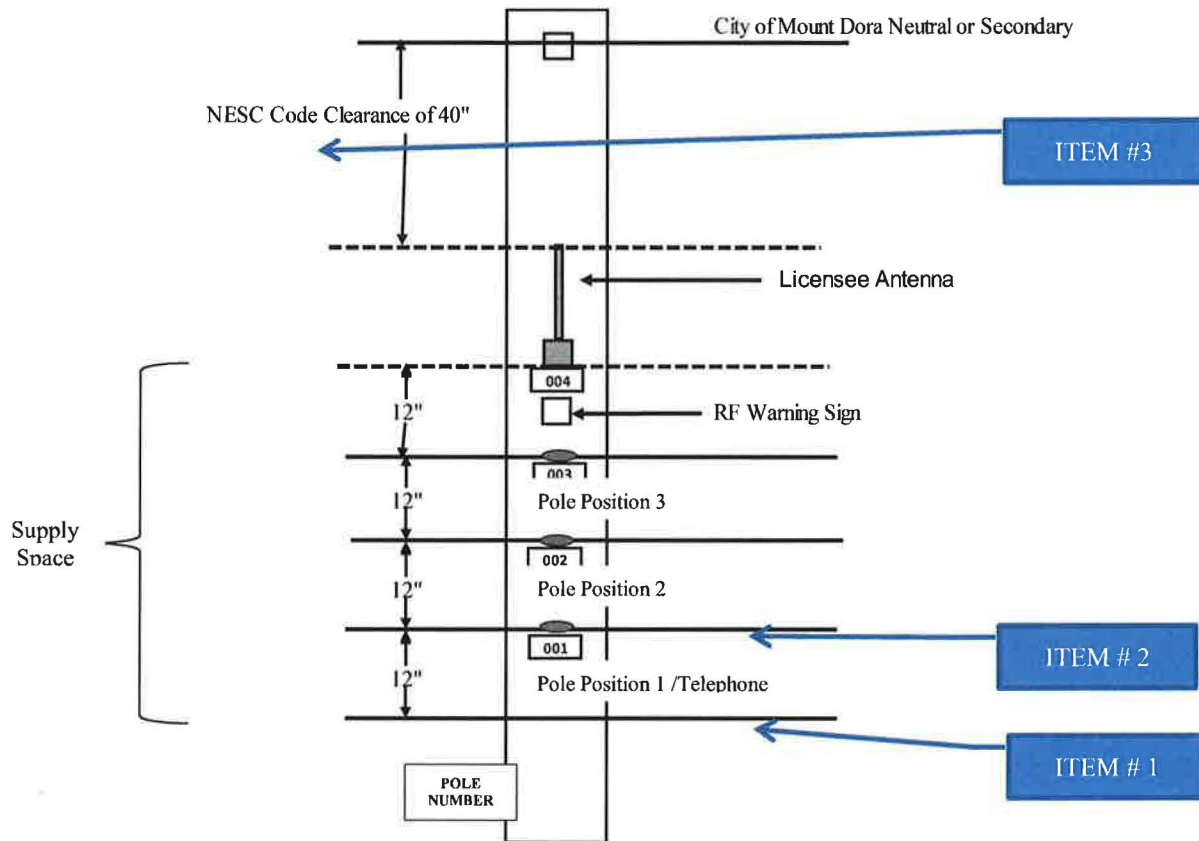
Previous Attachment Total _____

Number of Attachments Added _____

New Attachment Total _____

Clearance sheet shown below shall accompany each pole attachment location;

CLEARANCE SHEET



All Main cable attachments shall be located either on the same side of the pole as the CITY's neutral or on one adjacent side. No main line cable attachments shall be located on the side of the pole opposite of the CITY's neutral

1. The 1st Licensee attachment will be located at a height providing NESC clearances over roads, obstacles etc.
2. All additional licensee attachments will be located 1' above the highest existing Licensee cable
3. No Licensee attachment will intrude on the 40" NESC code clearance space.

Exhibit B

CITY OF MOUNT DORA ELECTRIC UTILITY

JOINT-USE POLE ATTACHMENT

BULK PERMIT PROCESS

The joint-use pole attachment bulk permitting process allows for the provision of large scale projects greater than 1,000 pole attachments by means of new and or over-lashing construction methods. Prior to granting this provision, the pole attachment requestor (Licensee) is required to follow the requirements outlined within this document. The CITY shall not charge Licensee an Application fee during any Bulk Deployment Process.

ARTICLE 1: REQUIRED PERMIT APPLICATION DOCUMENTATION

The Licensee shall submit a complete permit application, including required documentation, before the CITY will review and approve a "Bulk Permit".

This information shall establish that a Licensee has a *bona fide* plan to make new attachments, and/or over-lashing at an average rate of a minimum 100 CITY Poles per month.

The Licensee shall submit the following three items to be eligible for the Bulk permit Process.

1. **Bulk Deployment Permit Application, - Attachment A**
2. **Field Survey Information - Attachment B**
3. **Licensee Construction pole attachment design drawing and map locations**

All pole attachment field survey and engineering construction design shall follow *Clearance Criteria* outlined in *Attachment C*, and requirements set forth in the original License Agreement, NESC clearance requirements, Florida Department of Transportation standards, and no public safety hazards as determined by the CITY. The bulk permit expires 18 months from the CITY approval date.

2.1 PERMIT APPLICATION INFORMATION

The licensee shall submit to Mount Dora the *Bulk Deployment Permit Application (Attachment A)*. With the application, the Licensee shall provide the company names of those that will provide Engineering Field Services and Construction services.

2.2 PRE-PERMIT FIELD SURVEY

A Licensee shall conduct a Pre-Permit field survey, followed by engineering review to determine the adequacy and availability of space on CITY's Poles for Licensee's Attachments. The engineering design for over-lashing and/or new pole attachments shall accommodate *Clearance Criteria* outlined in Attachment C.

All survey information shall be summarized using the *Field Survey Information spreadsheet, (Attachment B)* and provided to the CITY in an electronic Microsoft® Xcel format in groups of 100 units.

Item Requirements

1. The Mount Dora Pole Number
2. Physical address including nearest building number to the pole location
3. An installation plan consisting of new, over-lash, or replacement.
4. Proposed attachment position on each pole with respect to the existing licensee pole attachments.
5. NESC 40" separation, verification (Yes or No)
6. National Electric Safety Code Clearance over Roads, Street and Other Areas Subject to Truck Traffic, verification (Yes or No)

7. Pole attachment located on the same side of the pole as the City's neutral or secondary, or on one adjacent side, verification (Yes or No)
8. Make-Ready Work conflict description, verification (Yes or No)
9. Prepared pole load analysis, upon request

The City will conduct a Post-Construction Inspection to ensure and verify that Licensee's Attachments and Make Ready Work have been completed in accordance with applicable standards and the approved Applications. The CITY reserves the right to perform its own engineering, evaluation, or verification as appropriate or necessary. If more than 10 percent of Licensee's Attachments and Make Ready Work is reasonably determined by the CITY to be noncompliant, then Licensee shall pay the actual, reasonable, and documented costs of any such additional engineering or field survey conducted by CITY not to exceed \$10.00 per attachment for that application.

2.3 APPLICATION REVIEW AND APPROVAL

The CITY will review the permit application, field survey, engineering design drawings and mapping and determine as follows:

- (i) The granting of Permit Application or denial of Permit Application due to incomplete information
- (ii) If any changes, modifications, or revisions to the proposed Make-Ready Work is required for reasons of safety, reliability, or generally applicable engineering purposes, including but not limited to reasons related to the service of any other Attaching Entity;
- (iii) If make-Ready Work (including expanding capacity) is reasonably capable of being performed and if it allows Licensee to make its proposed attachments without adversely affecting public safety, electric service reliability, or the operations of CITY.
- (iv) If there is a need for the CITY to extend the time to respond to Applications during any Ramp-Up Period, or as mutually agreed between the parties in order to accommodate an increasing volume of applications, or to manage the workload of the CITY's contractors engaged in such review.

ARTICLE 3. MAKE-READY CONSTRUCTION

Make-Ready Construction is considered any work that is necessary to meet attachment height requirements. This may include shifting existing attachments, replacing a pole, moving other equipment on the pole, etc.

3.1 PERFORMANCE OF MAKE-READY WORK IN THE SUPPLY SPACE.

The CITY may, in its sole discretion, opt to perform the necessary Make-Ready Work in the Supply Space (see attachment C) itself or it may opt to authorize Licensee to perform the necessary Make-Ready Work using contractors approved by CITY. If CITY opts to perform Make-Ready Work in the Supply Space, Licensee shall pay CITY its actual, reasonable, and documented costs for performing Make-Ready Work, such amounts to be invoiced by CITY following completion of the Make-Ready Work.

3.2 CHANGES TO MAKE-READY WORK

During any Bulk Permit Process, if CITY describes any changes, modifications, or revisions to the proposed Make-Ready Work in any Application, the Licensee may notify CITY that it agrees to such changes, modifications, or revisions, in which case the affected Application(s) shall be granted; or it agrees to resubmit the Application(s) with changes, modifications, or revisions including notice and explanation of any changes, modifications, or revisions required by CITY that Licensee does not agree with, provided that if the proposed changes, modifications, or revisions to the proposed Make-Ready Work require an additional field review by CITY, Licensee shall reimburse CITY for the actual, reasonable, and documented costs of such additional review.

3.4 RESERVED SPACE BY CITY

CITY may reclaim space previously reserved pursuant to a written *bona fide* development plan related to its core electric service that is described to Licensee with respect to a Pole at the time of Licensee's Application was allowed to attach to such Pole.

3.5 OUTAGES

Where Licensee is to perform Make-Ready Work that will require electrical service interruption or de-energization, Licensee shall give CITY not less than thirty (30) days' prior written notice to the Electric Utility Director for outages affecting CITY's business or commercial customers and not less than fifteen (15) days' prior written notice for outages affecting CITY's residential customers.

Electric Utility Director
510 N Baker St
Mount Dora, FL 32757
Langleys@mountdora.gov

Such notice shall include the Pole location and the proposed date on which work will commence and finish. CITY approval is required for all outages, such approval not to be unreasonably withheld, conditioned or delayed, and which approval shall be subject to CITY's outage standards and customer requirements. Any such outages shall be during off-peak hours to minimize any disruption to CITY's customers.

3.7 ANCHORS AND GUYING

Licensee shall provide all anchors and guying necessary to accommodate the additional stress and load placed upon a Pole by its Attachments. Licensee shall have no right to use or replace CITY's anchors without the prior written consent of CITY which may not be unreasonably withheld.

3.8 ATTACHMENT ARMS

Licensee shall be entitled to utilize attachment arms as mutually agreed between the Parties.

ARTICLE 4. RATES, FEES, BILLING

4.0 COSTS AND FEES

Licensee shall reimburse costs of the Pre-Permit Survey, at a Rate of \$10.00 per pole. Accordingly, CITY shall not charge Licensee an Application fee during any Bulk Deployment Process undertaken by Licensee pursuant to this Addendum. All charges by CITY to Licensee permitted hereunder shall be paid within forty-five (45) days after receipt of an invoice by Licensee showing the actual, reasonable, and documented costs to CITY for performing such work.

4.1 ADDITIONAL PERSONNEL

The CITY at their discretion may use additional resources as necessary to accommodate Licensee's Bulk Deployment Process. Licensee shall reimburse the actual, reasonable, and documented cost of such resources pursuant to the terms set forth.

ATTACHMENT A



900 N. Donnelly Street
Mount Dora, FL 32757
352-735-7151
Fax: 352-735-1539

ELECTRIC UTILITY JOINT USE POLE ATTACHMENT 1. BULK DEPLOYMENT PERMIT APPLICATION

Date: _____

1. Licensee Corporation / Partnership: _____

Mail Address: _____

Project Name: _____

Incumbent Local Exchange Carrier: ☐ Competitive local exchange carrier: ☐

CATV ☒ TELCO ☐ Wireless Telecom ☐ Wireless Broadband ☐

X
Signature of Licensee Representative _____ Representative (Print Name) _____

Email: _____ Phone: _____ Cell: _____

Number of bulk pole attachments requested:

2. Engineering Field Service: _____

Representative: _____ Email: _____
(Print Name)

Phone: _____ Cell: _____

3. Construction Company: _____

Representative: _____ Email: _____
(Print Name)

Phone: _____ Cell: _____

TO BE COMPLETED BY CITY STAFF

Approved by: _____ Date Approved: _____

Special Conditions: _____

**APPROVED BULK POLE ATTACHMENT PERMITS EXPIRE 18 MONTHS FROM
APPROVAL DATE**

D:\Pubsero\Electric\Pole Attach\Bulk_Permit_Rev.Lab.doc

ATTACHMENT B

CITY OF MOUNT DORA

BULK PERMIT #

LUMEN-001

ATTACHMENT B

ELECTRIC POLE JOINT USE

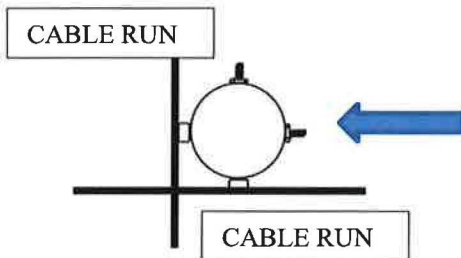
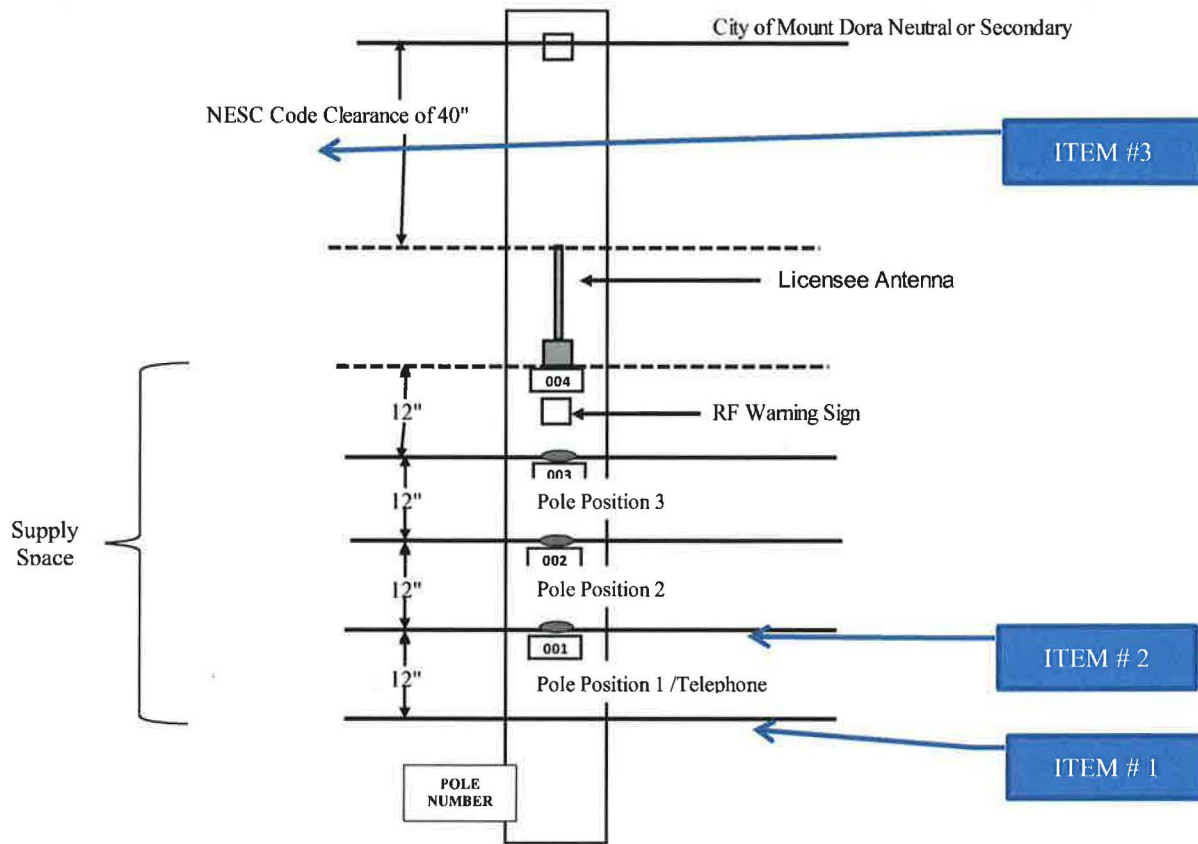
FIELD SURVEY INFORMATION SUMMARY

APPLICATION PACKAGE # 1

* - Appendix A JOINT POLE ATTACHMENT CRITERIA

Pole Attachment Application #	Mount Dora Pole Number	Building Number and Address	LICENSEE			Pole Attachment Position (1, 2, 3) *	NESC 40" Separation	NESC Roadway Clearance	Attachment (Same Side as Utility)	Make Ready Required	MOUNT DORA REVIEW		
			New	Overlash	Replacement						Required Load Analysis	Make Ready Complete	Pole Approved for Attachment
EXAMPLE	3401	900 N. Donnelly Street		X		3	Y	Y	Y	N	N	NR	Y
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
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19													
20													
21													
22													
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24													
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26													
27													
28													
29													
30													

ATTACHMENT C



All Main cable attachments shall be located either on the same side of the pole as the CITY's neutral or on one adjacent side. No main line cable attachments shall be located on the side of the pole opposite of the CITY's neutral

4. The 1st Licensee attachment will be located at a height providing NESC clearances over roads, obstacles etc.
5. All additional licensee attachments will be located 1' above the highest existing Licensee cable
6. No Licensee attachment will intrude on the 40" NESC code clearance space.

ADDENDUM #1 – POLE ATTACHMENT AGREEMENT

THIS ADDENDUM #1 is made by and between the CITY OF MOUNT DORA, a municipal corporation of the State of Florida, 510 N. Baker Street, Mount Dora, Florida 32757, hereinafter referred to as the “Licensor”, and Comcast Cable Communications Management, LLC, hereinafter referred to as the “Licensee,” with respect to that certain Pole Attachment Agreement entered into by the parties with the effective date of July 1, 2023.

WITNESSETH:

WHEREAS, pursuant to 14(b) of the Pole Attachment Agreement (the “Agreement”) its terms and conditions may only be modified or amended by written instrument executed by each of the parties; and

WHEREAS, the parties mutually agree to add a choice of law and venue provision to the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and provisions contained herein, the parties agree that the Agreement shall be modified to add the following provision as if set forth fully within the Agreement as follows:

....

17. Applicable Law and Venue. The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, the exclusive venue for such proceedings shall be in the state and federal courts having jurisdiction in Lake County, Florida.

....

All other terms and conditions of the Agreement shall remain in full force and effect.

[SIGNATURES ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement effective this __ day of _____, 2024.

LICENSOR: CITY OF MOUNT DORA

CRISSY STILE
MAYOR of the City of Mount Dora,
Florida

ATTEST:

JEANANN HAND
CITY CLERK

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

Patrick Brackins
City Attorney

LICENSEE: Comcast Cable Communications Management, LLC

By: 

Print: **Jeffrey Buzzelli**

As Its Senior Vice President, Florida Region



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: Approval of Employment Contract with Vince Sandersfeld, City Manager

Introduction:

This is an opportunity for the City Council to review and approve a contract between Vince Sandersfeld and the City of Mount Dora.

Discussion:

On April 16, 2024, the City Council authorized the City Attorney to negotiate an agreement with Mr. Sandersfeld, which is attached hereto.

Budget Impact:

There is no impact to the budget associated with this action. Salary compensation is included in the current budget funding for the City Manager's position.

Strategic Impact:

Objective 3.2. Attract and maintain city human resources through competitive compensation and benefits

Recommendation:

The City Council to approve the agreement as presented.

Attachment(s):

1. Sandersfeld Employment Agreement - FINAL

Prepared by: Vince Sandersfeld, Acting City Manager
Reviewed by: City Attorney, City Attorney
Jeanann Hand, City Clerk
Vince Sandersfeld, Acting City Manager

Approved - 4/23/2024
Approved - 4/23/2024
Final Approval - 4/23/2024

CITY MANAGER EMPLOYMENT AGREEMENT

This **City Manager Employment Agreement** ("the Agreement") is made and entered into this 7th day of May, 2024, by and between the **City of Mount Dora**, a Florida municipal corporation, (hereinafter called "Employer") and **Vince Sandersfeld**, (hereinafter called "Employee"), both of whom agree as follows:

Section 1. Term.

Pursuant to Article V, Section 20 of the City of Mount Dora Charter, Employee was appointed by the City Council on May 7, 2024, to serve as the City Manager of City of Mount Dora. This Agreement shall be effective on the date of approval by the City. This Agreement shall continue until terminated by such a vote of the City Council, by operation of law, or as otherwise set forth herein.

Section 2. Duties and Authority.

A. The City agrees to employ the Employee to serve as the City Manager for the City of Mount Dora, operating as its chief administrative officer and performing the functions and duties established by the City Charter, City Policy, City Codes, applicable state and federal law and such other legally permissible and proper duties and functions for the benefit of the City of Mount Dora.

B. Employee agrees to perform all duties of the City Manager for the City of Mount Dora in a professional, competent, responsible and industrious manner.

C. Employee shall remain in the exclusive employ of the City and shall devote all such time, attention, knowledge, and skill necessary to faithfully perform the duties under this Agreement.

Section 3. Compensation.

A. Employer agrees to pay Employee an initial annual salary of One Hundred Seventy-Seven Thousand Dollars (\$177,000.00). The salary of Employee will be reviewed no less frequently than annually, at the time of Employee's annual review. Employer agrees to pay Employee in equal installments, on the same schedule as other City employees, during the term of this Agreement, making all required and applicable payroll deductions. Employer may, but is not obligated to, provide merit raises to Employee in accordance herewith.

B. In addition, Employer agrees to increase the salary of Employee in such amounts and to such extent as the Employer increases the pay of other City employees, as a result of an across-the-board or cost of living increase which affects all full-time, non-bargaining unit City employees. The Employer may elect to increase the salary of the Employee above the cost of living at the discretion at any time deemed appropriate by the Employer.

Section 4. Vacation and Other Leave.

A. During the term of this Agreement, Employee shall accrue paid leave, for use as he deems necessary and appropriate, at a rate of eight (8) hours in each pay period. Upon termination of this Agreement, Employee shall receive any unused accrued paid leave in his final paycheck.

B. Upon termination of this Agreement, any unused vacation leave shall be paid to Employee in accordance with the City's Personnel Policy in effect at the time.

C. Employee shall be entitled to six (6) days of paid time off annually for personal time off. The Employee may carry forward any unused paid time off.

D. Employee shall be entitled to accrue sick leave per city policy. Upon termination of the Agreement, any unused sick leave shall be paid to Employee.

E. Employee shall be entitled to bereavement leave in the same manner as all other City employees.

F. Employee shall be entitled to all holidays pursuant to the same schedule as all other City employees.

G. Pursuant to City of Mount Dora Charter, Article V, Section 24, in advance of leave, or temporary disability, of three (3) days or more, up to twenty-one (21) days, Employee shall ensure that the City Council is fully apprised of the time in which he will not be available to accomplish his day-to-day operational tasks. By letter filed with the City Council, and subject to the approval of the City Council, the City Manager shall appoint a qualified City administrative officer or department head to perform the duties of City Manager.

Section 5. Health, Disability, Life Insurance Benefits.

A. Employer agrees to provide Health Insurance to Employee, and his dependents, in the same manner as all other City employees. Employer shall provide Vision Insurance, Dental Insurance and other benefits to Employee, and his dependents, in the same manner as all other City employees.

B. Employer shall pay the premium amount due for a term Life Insurance policy with a coverage amount equal to Five-Hundred-Thousand Dollars (\$500,000.00). Employee shall have the right to choose the beneficiary on such policy.

Section 6. Automobile, Monthly Expenses and Cell Phone Allowance.

A. To compensate Employee for automobile expenses related to the duties of City Manager, Employer agrees to provide a monthly automobile allowance in the amount of Five Hundred Dollars (\$500.00) to compensate Employee for expenses related to automobile use, purchase, lease, operation, insurance, maintenance, and all other expenses related to the duties of

Employee pursuant to this Agreement. The Employee shall be entitled to mileage reimbursement for all travel outside the boundaries of Lake County or in excess of 50 miles from City Hall for official business pursuant to any applicable City Policy. (Note that under no circumstance shall Employee be entitled to mileage reimbursement for commuting to and from his residence.)

B. The City shall provide the Employee with a City issued cellular phone with all fees and costs associated therewith paid by the City.

Section 7. Retirement.

Employer shall contribute, on behalf of the Employee, fifteen percent (15%) of Employee's salary, including all increases during the term of this Agreement, in equal proportionate amounts each pay period, into a 401(A) retirement plan. Employee may contribute additional amounts to the extent permitted by law. Employee is an existing City employee and already fully vested in the City's 401(A) retirement plan.

Section 8. Professional Development, Dues and Subscriptions.

A. Employer agrees to budget for and to pay for the reasonable travel expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for Employer.

B. Employer agrees to budget and to pay for the professional dues and subscriptions of Employee reasonably necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the Employer, subject to the approval of Employer and in accordance with City Policies.

Section 9. Civic Club Memberships.

Employer recognizes the desirability of representation in and before local civic and other organizations, and Employee is authorized to become a member of up to a maximum of two (2) such organizations, for which Employer shall pay all reasonable dues and related expenses, subject to and in accordance with City Policies. Employee shall report to the Employer any membership(s) that he has taken out at Employer's expense.

Section 10. No Reduction of Benefits.

Employer shall not at any time during the term of this Agreement reduce the salary, compensation or other financial benefits of Employee, except to the case of such a reduction across-the-board for all department heads of the City, and then in the same proportion.

Section 11. Parity in Benefits.

Employee is entitled to any employment benefit which is now furnished to or is hereafter

furnished to any City Department Heads, not including dues, memberships or subscriptions which are particular to the occupation of a particular Department Head, including but not limited to law enforcement and fire and rescue.

Section 12. Termination of Agreement by Act of a Party.

Any one of the following acts or events shall constitute termination of this Agreement and the employment relationship created hereby:

A. A vote of the City Council, at a duly authorized public meeting, to terminate the Agreement pursuant to Article V, Section 21, City of Mount Dora Charter. The parties hereto understand that no cause is required for termination pursuant to Article V, Section 21 of the City's Charter.

B. The taking of final action by City, citizens or the Florida Legislature to amend any provisions of the City Charter, ordinances or other legislation governing the role, powers, duties, authorities or responsibilities of Employee's position which substantially changes the form of government of the City. Under such circumstances Employee shall have the right to declare in writing that such amendment or amendments constitute termination, and his doing so will constitute termination of this Agreement.

C. Employee's written declaration of termination, following a request for his resignation by City.

Section 13. Severance Compensation.

A. In accordance with Florida Statutes, Section 215.425, severance compensation shall be paid to Employee when employment is terminated for any one of the reasons set forth in Section 12 above. In such an event, Employer shall pay severance compensation equal to twenty (20) weeks of salary, at Employee's then-current rate of pay, excluding the automobile allowance, monthly expenses and cell phone allowance, without the accrual of any leave time and without any other payments otherwise provided under this Agreement, except that during the twenty week severance period, the City shall pay its share to continue the health insurance benefits of Employee and his dependents at the same rate or percentage as prior to termination.

B. Any payments to be made hereunder shall be made in one lump sum, unless otherwise agreed in writing by the parties. In any case, all required and applicable payroll deductions will be made. Except as stated herein, no other severance compensation shall be owed or paid by the City.

C. In the event Employee is terminated for one or more of the following reasons, Employer is not obligated to pay severance under this section:

- (i) malfeasance, misfeasance and/or nonfeasance in performance of duties and responsibilities;
- (ii) Neglect of duty, including the inability or unwillingness to properly

- discharge the responsibilities of office;
- (iii) violation of any substantive City Policy, rule or regulation would subject another City employee to termination;
- (iv) any act which involves moral turpitude or which cause the City to be held in disrepute;
- (v) the commission by the Employee of any embezzlement, fraud, theft, falsification of records or other deliberate and premeditated act of dishonesty toward the City;
- (vi) the conviction of, or the pleading of *nolo contendere* by the Employee to, a misdemeanor or felony, regardless of whether adjudication is withheld;
- (vii) willfully damaging the City's real or tangible property;
- (iv) the abuse of alcohol, narcotics or other controlled substances on the job to the extent that an independent, third-party investigator finds that it has materially affected the Employee's ability to efficiently perform his responsibilities under this Agreement;
- (viii) willfully causing physical, sexual or verbal harassment and injury to any other employee of the City; or
- (ix) any other act of similar nature of the same or greater seriousness to those matters listed hereinabove.

Section 14. Automatic Termination Without Severance Compensation.

This Agreement shall terminate automatically upon the death of Employee; evidence of the commission of any felony by Employee; or the physical or mental incapacity of Employee which renders him unable to perform his duties hereunder and which lasts for 90 consecutive calendar days. Upon any such automatic termination, neither party shall have any further obligation or liability under this Agreement.

Section 15. Resignation.

In the event that Employee voluntarily resigns his position with the City, Employee shall provide a minimum of thirty (30) days' notice unless the parties agree otherwise.

Section 16. Performance Evaluation.

Employer shall annually review the performance of Employee and at a regularly scheduled City Council meeting in the month of September approve any merit pay increase to be effective on the ensuing October 1st. Individual City Council members may meet with the Employee quarterly in a one-on-one setting to review the merits of Employee's performance via a performance matrix adopted by Employer. Neither the contents or outcome of said reviews, or the City Council's decision on a merit increase shall operate as an alteration to or amendment of any provision of this Agreement.

Section 17. Hours of Work.

It is recognized that Employee must devote a great deal of time outside the normal office

hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 18. Indemnification.

A. City shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the course and scope of Employee's duties as Active City Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. City may choose, in its sole discretion, the appropriate attorney or firm to represent Employee as provided herein.

B. Legal representation, provided by City for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. City shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of City in order for indemnification, as provided in this Section, to be available.

C. Employee recognizes that City shall have the right to compromise and settle any claim or suit covered by this indemnity obligation. If Employee is a named party to any such litigation or claim, he shall have the right to decline to settle the litigation or claim as to himself, but in such event, City shall have the right to opt to no longer defend and/or indemnify Employee.

Section 19. Bonding.

Employer shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

Section 20. Notices.

Notice for purposes of this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

To Employer:	Attn: Mayor City of Mount Dora 510 N. Baker Street Mount Dora, Florida 32757
To Employee:	Vince Sandersfeld 172 Raintree Drive Longwood, FL, 82779

Either party may update its or his address for notice as necessary from time to time.

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 21. General Provisions.

A. All City of Mount Dora employment policies shall be applicable to Employee that are not in conflict with the provisions set forth herein. In the event of such a conflict, the provisions of this Agreement shall control.

B. Entire Agreement and Modification. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions, representations or understandings by or between the parties are merged into and rendered null and void by this Agreement. This Agreement may only be changed by written instrument, fully executed by both parties.

C. Joint Authorship and Binding Effect. This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision. If necessary, to preserve the intent of the parties, the parties shall negotiate in good faith to amend this Agreement, adopting a substitute provision for the one deemed invalid or unenforceable that is legally binding and enforceable.

E. Law and Venue. The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall lie in Lake County, Florida. The parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the parties hereto.

[Signatures on Following Page]

[Rest of Page Left Intentionally Blank]

IN WITNESS WHEREOF, the parties hereto, have executed this Agreement on the _____ day of May 2024.

CITY OF MOUNT DORA

Crissy Stile, Mayor

ATTEST:

Jeanann Hand, City Clerk

Approved as to form and legal sufficiency:

Patrick Brackins, City Attorney

EMPLOYEE

Crissy Stile, Mayor



510 N. Baker St.
Mount Dora, FL 32757
352-735-7126

DATE: May 7, 2024

TO: Honorable Mayor and City Council Members

FROM: Vince Sandersfeld, Acting City Manager

SUBJECT: Budget Calendar Revision

Introduction:

This is an opportunity for the Council to discuss changes to the Budget Calendar for FY 2024-25.

Discussion:

On March 5th, 2024, the City Council reviewed the proposed FY 2024-25 budget calendar and established statutory deadlines for public hearings and times for budget workshops.

Due to the Property Appraiser's commitment to send out TRIM notices on August 16th, 2024, which is one week earlier than statutory requirement, the non-ad valorem deadlines have changed. In order to comply with the non-ad valorem deadlines, we must schedule a Special Meeting to approve the Final Fire Assessment Rate Resolution. Although the City's meeting is required to be conducted between September 10th, 2024 and September 12th, 2024, the City's staff recommends conducting this meeting on Tuesday, September 10th, 2024 at 6:00PM.

Budget Impact:

N/A

Strategic Impact:

GOAL 3: Fiscal Resources

Recommendation:

The City's staff recommends conducting a Special Meeting to approve the Final Fire Assessment Resolution on Tuesday, September 10th, 2024 at 6:00PM.

Attachment(s):

1. FY2024-25 Budget Calendar - Rev 1

Prepared by: Aneta Barton, Budget Director

Reviewed by: Jeanann Hand, City Clerk
Vince Sandersfeld, Acting City Manager

Approved - 4/30/2024

Final Approval - 4/30/2024



**Budget Calendar Rev 1
FY 2024 - 25**

Date	Responsible	Required Activity	Requirement Reference
March 11-14, 2024	Departments	Mid-Year Budget Meetings with Finance	
April 1, 2024	Budget Officer	Open budget for operator input	
April 1, 2024	Departments	Personnel Requisitions due to HR and Information Technology Forms due to IT	
April 16, 2024 Tuesday Regular Meeting	City Council	Mid-Year Budget Amendment	
May 10, 2024	IT & Purchasing	Cost allocations for Communications and Copy Machine Due	
May 17, 2024	Departments	CIP and Capital Outlay forms completed and turned into Finance	
May 31, 2024	Departments	Department entry due by the end of the day	
On or before June 1st	Property Appraiser	Provide an estimate of 2024 total assessed values of non-exempt property for budget planning purposes.	Section 200.065(8), FL Statutes
June 3 – 7, 2024	Departments	Budget clear-up review with department head	
June 10, 2023 Monday 6:00PM	City Council	Budget Workshop 1. Set budget parameters 2. Fire Assessment	
June 18, 2023 Tuesday Regular Meeting	City Council	City adopts preliminary Fire Assessment rate resolution	
On or before July 1st	Property Appraiser	Submit 2024 certified taxable values to the City Council.	Section 193.023(1), FL Statutes, Section 200.065(1), FL Statutes
July 1, 2024	Budget Officer	Deadline for City to submit estimated Fire Assessment Revenue to Property Appraiser for TRIM notice.	
July 8, 2024 Monday 6:00PM	City Council	Budget Workshop 1. Capital Outlay and CIP 2. Enterprise	

July 16, 2023 Tuesday Regular Meeting	City Council	City Commission Sets Maximum Millage 6:00 PM	Section 200.065(2)(b), FL Statutes
July 22, 2024 Monday 6:00PM	City Council	Budget Workshop 1. Governmental Funds 2. Internal Services	
No later than August 4th	City Council	Notify the Property Appraiser of: 1. The Proposed millage rates for FY 2024-25; 2. The rolled back millage rates for FY 2024-25; The date, time, and place of the public hearings to consider the proposed millage rates and tentative budgets.	Section 200.065(2)(b), FL Statutes
August 16, 2024	Property Appraiser	Mail notices of proposed property taxes for 2024 to each taxpayer listed on the current year assessment roll.	Section 200.065(2)(b), FL Statutes, Section 200.069, FL Statutes
August 16, 2024	Budget Officer	Advertise public hearings to consider final adoption of the fire assessment rate resolution.	The mailed notice and public advertisement of the adoption of the annual assessment resolution statutorily must be at least 20 days prior to the public hearing (not inclusive).
August 23, 2024	City Council	Proposed Budget Book to Council	
August 26, 2024 Monday 6:00PM	City Council	Final Budget Workshop 1. Overall budget	
September 3, 2024 Tuesday Regular Meeting	City Council	Conduct 1 st public hearings to consider adoption of the tentative budgets and proposed millage rate for fiscal year 2024-25. All hearings <u>must</u> begin after 5:00 P.M. Tentative budget and Proposed millage rate	Section 166.241(3), FL Statutes, Section 200.065(2)(c) – (e), FL Statutes
September 10 th , 2024 Special Meeting	City Council	Conduct public hearings to consider adoption of the Fire Assessment Rate resolution	Cannot be 9 th due to School Board meeting
September 13, 2023 Friday	Budget Officer	Advertise public hearings to consider final adoption of the budgets, increases in property taxes and operating expenditures (if applicable), and adoption of millage rate for fiscal year 2024-25.	Section 200.065(2)(d), FL Statutes, Sections 200.065(3), (a), (b),(h)-(i), FL Statutes'

September 17, 2024 Tuesday Regular Meeting	City Council	Conduct public hearings to consider final adoption of the budgets and millage rate for fiscal year 2024-25. All hearings <u>must</u> begin after 5:00 P.M.	Section 166.241(3), FL Statutes, Section 200.065(2),(d),(e), FL Statutes
September 20, 2024	Budget Officer	Sends out Resolution or the ordinance adopting the final millage rate to the Property Appraiser, the Tax Collector and the DOR	
September 30, 2024	Budget Officer	Sends out email to Lake County Manager with the CRA and NE CRA budgets	Section 163.387(6)(b), FL Statutes
October 1, 2024	Budget Officer	Adopts Budget in BSA	
On or before October 17, 2024	Budget Officer	Sends out TRIM Packet to DOR	