

Anastasia Mosquito Control District of St. Johns County

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2021 MEMO

DISTRICT DIRECTOR

Dr. Rui-De Xue



BOARD OF COMMISSIONERS:

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Gayle Gardner, Commissioner

TO: Board of Commissioners

FROM: Dr. Rui-De Xue, Director, Richard Weaver, Business Manager

DATE: March 11, 2021

RE: AMCD Vector Disease Education Center building contract approval

AMCD staff and District attorney Wayne Flowers have reviewed the contract submitted by Compass Group, Inc. (contractor). A number of changes were requested by the District attorney from Compass Group, Inc. and were incorporated into the contract. The contract amount of \$2,469,355.00 for the construction of the education facility including the two alternates is the bid amount and correct in the contract documents. The building construction timeline is for 12 months, after permitting is approved by the St. Johns County Building Department, with a \$1,000.00 a month penalty clause.

Staff recommends the board approve the contract as presented.

Staff also recommends that the Board approve an additional 10% (\$246,935.50) for change orders, permit fees, AMCD display components not included in the bid cost, furniture, computers and POS software.



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STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND
CONSTRUCTOR FOR A PUBLIC WORKS PROJECT
(Optional Unit Price)

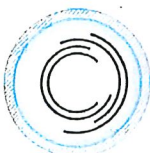
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ConsensusDocs® 210

STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND CONSTRUCTOR FOR A PUBLIC WORKS PROJECT (Optional Unit Price)



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ARTICLE 1 AGREEMENT

Job Number: 2122

Account Code: []

This Agreement is made this 11th day of March in the year 2021,

by and between the

OWNER, ANASTASIA MOSQUITO CONTROL DISTRICT OF ST. JONS COUNTY
120 EOC Drive
St. Augustine, Florida 32092
Attn: Dr. Rui-De Xue, Director

and the



CONSTRUCTOR, COMPASS GROUP, INC.
961687 Gateway Blvd, Suite 201M
Amelia Island, Florida 32034
Attn: Ron V. Flick, President

Tax identification number (TIN) 59-3562265
Contractor License No., if applicable CGC1515930

for construction and services in connection with the following

PROJECT AMCD Disease Vector Education Center Phase Two

Notice to the Parties shall be given at the above addresses.

The Design Professional is DSAE
DOHERTY SOMMERS ARCHITECTS ENGINEERS, INC.
370 15TH Ave S; Units A & B
Jacksonville Beach, Florida 32250
Craig A Sommers, AIA, AR0016480
csommers@dsae.net

ARTICLE 2 GENERAL PROVISIONS

2.1 PARTIES' RELATIONSHIP AND ETHICS The Parties each agree to proceed with the Project on the basis of mutual trust, good faith, and fair dealing.

2.1.1 Constructor shall furnish construction administration and management services and use Constructor's diligent efforts to perform the Work in an expeditious manner consistent with the Contract Documents. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2.1.2 Constructor represents that it is an independent contractor and that in its performance of the Work it shall act as an independent contractor.

2.1.3 Neither Constructor nor any of its agents or employees shall act on behalf of or in the name of Owner except as provided in this Agreement or unless authorized in writing by Owner's Representative.

2.2 ETHICS The Parties shall perform their obligations with integrity, ensuring at a minimum that each: (a) avoids conflicts of interest and promptly discloses any to the other Party; and (b) warrants that it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers, and employees, Subcontractors or others for whom they may be liable, to secure preferential treatment.

2.3 .

2.3.1

2.4 DEFINITIONS



2.4.1 "Agreement" means this ConsensusDocs 210 Standard Agreement and General Conditions Between Owner and Constructor for a Public Works Project, as modified, and exhibits and attachments made part of this agreement upon its execution.

2.4.1.1 The following exhibits are part of this Agreement:

See Article 14.1, Exhibits A – Exhibit F

2.4.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.4.3 A "Change Order" is a written order signed by Owner and Constructor after execution of this Agreement, indicating changes in the scope of the Work, the Contract Price, or Contract Time, including substitutions proposed by Constructor and accepted by Owner.

2.4.4 The "Contract Documents" consist of this Agreement, the existing Contract Documents listed in section 14.1, drawings, specifications, addenda issued and acknowledged prior to execution of this Agreement, information furnished by Owner pursuant to subsection 3.13.4, and modifications issued in accordance with this Agreement.

2.4.5 The "Constructor" is the person or entity identified in ARTICLE 1 and includes Constructor's Representative.

2.4.6 "Contract Price" is the amount indicated in section 7.1 of this Agreement.

2.4.7 "Contract Time" is the period between the Date of Commencement and Final Completion.

2.4.8 "Cost of the Work" means the costs and discounts specified in subsection 8.3.1.3.

2.4.9 "Date of Commencement" is as set forth in section 6.1.

2.4.10 "Day" means a calendar day.

2.4.11 "Defective Work" is any portion of the Work that does not conform to the requirements of the Contract Documents.

2.4.12 "Design Professional" means the licensed architect or engineer, and its consultants, retained by Owner to perform design services for the Project.

2.4.13 "Final Completion" occurs on the date when Constructor's obligations under this Agreement are complete and accepted by Owner and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by Owner and Constructor.

2.4.14 "Hazardous Material" is any substance or material identified now or in the future as hazardous under Laws, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.

2.4.15 "Interim Directed Change" is a change to the Work directed by Owner pursuant to section 8.2.

2.4.16 "Laws" mean federal, state, and local laws, ordinances, codes, rules, and regulations applicable to the Work with which Constructor must comply that are enacted as of the Agreement date.



2.4.17 "Others" means other contractors/constructors, material suppliers, and persons at the Worksite who are not employed by Constructor or Subcontractors.

2.4.18 "Overhead" means (a) payroll costs and other compensation of Constructor employees in Constructor's principal and branch offices; (b) general and administrative expenses of Constructor's principal and branch offices including charges against Constructor for delinquent payments; and (c) Constructor's capital expenses, including interest on capital used for the Work.

2.4.19 "Owner" is the person or entity identified in ARTICLE 1, and includes Owner's Representative.

2.4.20 The "Parties" are collectively Owner and Constructor.

2.4.21 "The Project," as identified in ARTICLE 1, is the building, facility, or other improvements for which Constructor is to perform Work under this Agreement. It may also include construction by Owner or Others.

2.4.22 The "Schedule of the Work" is the document prepared by Constructor that specifies the dates on which Constructor plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner.

2.4.23 A "Subcontractor" is a person or entity retained by Constructor as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.

2.4.24 "Substantial Completion"

☒ If this box is checked or, alternatively, if neither box is checked for this subsection the following definition of Substantial Completion shall be the default. "Substantial Completion" means substantial completion of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that Owner may occupy or utilize the Project, or a designated portion, for the use for which it is intended, without unscheduled disruption, and occupancy or use is authorized by public authorities having jurisdiction over the Work. This date shall be confirmed by a Certificate of Substantial Completion signed by Owner and Constructor. It is the intent of the parties of this agreement that this paragraph be consistent with Chapter 715.12, Florida Statute.

Or

☐ means that the Work is complete in accordance with the Contract Documents, approved by Owner, and ready to be placed into service, including cleanup. Owner's approval shall not be unreasonably withheld and Owner shall commence responding to a Constructor's request for approval of the Work within two (2) Business Days or approval shall be deemed given. If Owner does not provide a complete response within an additional five (5) Business Days from commencing a response then approval shall be deemed to be given.

2.4.25 A "Subsubcontractor" is a person or entity who has an agreement with a Subcontractor or another Subsubcontractor to perform a portion of the Subcontractor's Work.

2.4.26 A "Supplier" is a person or entity retained by Constructor to provide material or equipment for the Work.

2.4.27 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an



effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.4.28 "Work" means the construction and services necessary or incidental to fulfill Constructor's obligations for the Project in conformance with this Agreement and the other Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.

2.4.29 "Worksite" means the geographical area of the Project location as identified in ARTICLE 1 where the Work is to be performed.

ARTICLE 3 CONSTRUCTOR'S RESPONSIBILITIES

3.1 GENERAL RESPONSIBILITIES

3.1.1 Constructor shall provide all labor, materials, equipment, and services necessary to complete the Work, all of which shall be provided in full accord with and reasonably inferable from the Contract Documents.

3.1.2 Constructor shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized, unless the Contract Documents give other specific instructions. In such case, Constructor shall not be liable to Owner for damages resulting from compliance with such instructions unless Constructor recognized and failed to timely report to Owner any error, inconsistency, omission, or unsafe practice that it discovered in the specified construction means, methods, techniques, sequences, or procedures.

3.1.3 Constructor shall perform Work only within locations allowed by the Contract Documents, Laws, and applicable permits.

3.2 COOPERATION WITH WORK OF OWNER AND OTHERS

3.2.1 Owner may perform work at the Worksite directly or by Others. Any agreements with Others to perform construction or operations related to the Project shall include provisions pertaining to insurance, indemnification, waiver of subrogation, consequential damages, coordination, interference, cleanup, and safety that are substantively the same as the corresponding provisions of this Agreement.

3.2.2 If Owner elects to perform work at the Worksite directly or by Others, Constructor and Owner shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. Owner shall require each separate contractor to cooperate with Constructor and assist with the coordination of activities and the review of construction schedules and operations. The Contract Price and Contract Time shall be equitably adjusted, as mutually agreed by the Parties, for changes made necessary by the coordination of construction activities, and the Schedule of the Work shall be revised accordingly. Constructor, Owner, and Others shall adhere to the revised construction schedule.

3.2.3 With regard to the work of Owner and Others, Constructor shall (a) proceed with the Work in a manner that does not hinder, delay, or interfere with the work of Owner or Others or cause the work of Owner or Others to become defective, (b) afford Owner or Others reasonable access for introduction and storage of their materials and equipment and performance of their activities, and (c) coordinate Constructor's Work with theirs.



3.2.4 Before proceeding with any portion of the Work affected by the construction or operations of Owner or Others, Constructor shall give Owner prompt written notification of any defects Constructor discovers in their work which will prevent the proper execution of the Work. Constructor's obligations in this subsection do not create a responsibility for the work of Owner or Others, but are for the purpose of facilitating the Work. If Constructor does not notify Owner of defects interfering with the performance of the Work, Constructor acknowledges that the work of Owner or Others is not defective and is acceptable for the proper execution of the Work. Following receipt of written notice from Constructor of defects, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the defects.

3.3 RESPONSIBILITY FOR PERFORMANCE

3.3.1 Prior to commencing the Work, Constructor shall examine and compare the drawings and specifications with information furnished by Owner that are Contract Documents, relevant field measurements made by Constructor, and any visible conditions at the Worksite affecting the Work.

3.3.2 Should Constructor discover any errors, omissions, or inconsistencies in the Contract Documents, Constructor shall promptly report them to Owner. It is recognized, however, that except as provided in the Contract Documents, Constructor is not acting in the capacity of a licensed design professional, and that Constructor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions, or inconsistencies or to ascertain compliance with applicable laws, building codes, or regulations. Following receipt of written notice from Constructor of defects, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the defects.

3.3.3 Constructor shall have no liability for errors, omissions, or inconsistencies discovered under this section unless Constructor knowingly fails to report a recognized problem to Owner.

3.3.4 Constructor may be entitled to additional costs or time because of clarifications or instructions by Owner in accordance with subsection 3.3.2.

3.3.5 Nothing in this section shall relieve Constructor of responsibility for its own errors, inconsistencies, and omissions.

3.4 CONSTRUCTION PERSONNEL AND SUPERVISION

3.4.1 Constructor shall provide competent supervision for the performance of the Work. Before commencing the Work, Constructor shall notify Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager so Owner may review the individual's qualifications. If, for reasonable cause, Owner refuses to approve the individual, or withdraws its approval after once giving it, Constructor shall name a different superintendent or project manager for Owner's review. Any disapproved superintendent shall not perform in that capacity thereafter at the Worksite.

3.4.2 Constructor shall be responsible to Owner for acts or omissions of parties or entities performing portions of the Work for or on behalf of Constructor or any of its Subcontractors.

3.4.3 Constructor shall permit only qualified persons to perform the Work. Constructor shall enforce safety procedures, strict discipline, and good order among persons performing the Work. If Owner determines that a particular person is unfit or unskilled for the assigned Work, Constructor shall immediately reassign the person upon receipt of Owner's written notice to do so.



3.4.4 CONSTRUCTOR'S REPRESENTATIVE Constructor's authorized representative is Greg Bowles. Constructor's Representative shall possess full authority to receive instructions from Owner and to act on those instructions. If Constructor changes its representative or their authority, Constructor shall immediately notify Owner in writing.

3.5 WORKMANSHIP The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except such materials as may be expressly provided in the Contract Documents to be otherwise.

3.6 MATERIALS FURNISHED BY OWNER OR OTHERS If the Work includes installation of materials or equipment furnished by Owner or Others, it shall be the responsibility of Constructor to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Constructor shall be the responsibility of Constructor and may be deducted from any amounts due or to become due Constructor. Any defects discovered in such materials or equipment shall be reported at once to Owner. Following receipt of written notice from Constructor of defects, Owner shall promptly inform Constructor what action, if any, Constructor shall take with regard to the defects.

3.6.1 ASSIGNMENT OF PURCHASE ORDER If Owner has purchased materials or equipment, and has disclosed terms to Constructor in writing prior to bid for installation on the Project, Owner may assign the purchase contract to Constructor and Constructor agrees to accept such assignment, at no additional cost to Owner.

3.7 TESTS AND INSPECTIONS

3.7.1 Constructor shall schedule all required tests, approvals, and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project. Constructor shall give proper notice to all required parties of such tests, approvals, and inspections. If feasible, Owner and Others may timely observe the tests at the normal place of testing. Except as provided in subsection 3.7.3, Owner shall bear all expenses associated with tests, inspections, and approvals required by the Contract Documents, which, unless otherwise agreed to, shall be conducted by an independent testing laboratory or entity retained by Owner. Unless otherwise required by the Contract Documents, required certificates of testing, approval, or inspection shall be secured by Constructor and promptly delivered to Owner.

3.7.2 If Owner or appropriate authorities determine that tests, inspections, or approvals in addition to those required by the Contract Documents will be necessary, Constructor shall arrange for the procedures and give timely notice to Owner and Others who may observe the procedures. Costs of the additional tests, inspections, or approvals are at Owner's expense except as provided in the subsection below.

3.7.3 If the procedures described in the two subsections immediately above indicate that portions of the Work fail to comply with the Contract Documents, Constructor shall be responsible for costs of correction and retesting.

3.8 WARRANTY

3.8.1 Constructor warrants that all materials and equipment shall be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At Owner's request, Constructor shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Constructor further warrants that the



Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Constructor's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by Owner or Others, or abuse. Constructor's warranty shall commence on the Date of Substantial Completion of the Work, or of a designated portion.

3.8.2 To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by Owner; they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. Constructor shall, nevertheless, be responsible for correction of any errors or cost of the repair due to Constructor's defective installation of any such products, equipment, systems or materials.

3.8.3 Constructor shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. All such warranties shall be listed in an attached exhibit to this Agreement. Constructor's liability for such warranties shall be limited to the one-year correction period as provided in the section below. After that period, Constructor shall provide reasonable assistance to Owner in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.

3.9 CORRECTION OF WORK WITHIN ONE YEAR

3.9.1 If, prior to Substantial Completion and within one year after the date of Substantial Completion of the Work, any Defective Work is found, Owner shall promptly notify Constructor in writing. Unless Owner provides written acceptance of the condition, Constructor shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period Owner discovers and does not promptly notify Constructor or give Constructor an opportunity to test or correct Defective Work as reasonably requested by Constructor, Owner waives Constructor's obligation to correct that Defective Work as well as Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.9.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall be extended by the period of time between Substantial Completion and the actual performance of the later Work. Correction periods shall not be extended by corrective work performed by Constructor.

3.9.3 If Constructor fails to correct Defective Work within a reasonable time after receipt of written notice from Owner prior to final payment, Owner may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Constructor. If payments then or thereafter due Constructor are not sufficient to cover such amounts, Constructor shall pay the difference to Owner.

3.9.4 If after the one-year correction period but before the applicable limitation period Owner discovers any Defective Work, Owner shall, unless the Defective Work requires emergency correction, promptly notify Constructor. If Constructor elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from Owner. Constructor shall complete the correction of Work within a mutually agreed timeframe. If Constructor does not elect to correct the Work, Owner may have the Work corrected by itself or Others and charge Constructor for the reasonable cost of the correction. Owner shall provide Constructor with an accounting of correction costs it incurs.



3.9.5 If Constructor's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing buildings, Constructor shall be responsible for the cost of correcting the destroyed or damaged property.

3.9.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Constructor's other obligations under the Contract Documents.

3.9.7 Prior to final payment, at Owner's option and with Constructor's agreement, Owner may elect to accept Defective Work rather than require its removal and correction. In such case, the Contract Price shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work.

3.10 CORRECTION OF COVERED WORK

3.10.1 On request of Owner, Work that has been covered without a requirement that it be inspected prior to being covered may be uncovered for Owner's inspection. Owner shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents, or if the defective condition was caused by Owner or Others. If the uncovered Work proves to be defective, Constructor shall pay the costs of uncovering and replacement.

3.10.2 If, contrary to specific requirements in the Contract Documents or contrary to a specific request from Owner, a portion of the Work is covered, Owner, by written request, may require Constructor to uncover the Work for Owner's observation. In this circumstance, the Work shall be replaced at Constructor's expense and with no adjustment to the Contract Time.

3.11 SAFETY OF PERSONS AND PROPERTY

3.11.1 SAFETY PRECAUTIONS AND PROGRAMS Constructor shall have overall responsibility for safety precautions and programs in the performance of the Work. However, such obligation does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work or for compliance with Laws.

3.11.2 Constructor shall seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect:

3.11.2.1 its employees and other persons at the Worksite;

3.11.2.2 materials and equipment stored at onsite or offsite locations for use in the Work; and

3.11.2.3 property located at the Worksite and adjacent to Work areas, whether or not the property is part of the Worksite.

3.11.3 CONSTRUCTOR'S SAFETY REPRESENTATIVE Constructor's Worksite safety representative is Tommy Casey, who shall act as Constructor's Worksite safety representative with a duty to prevent accidents. If no individual is identified in this subsection, Constructor's safety representative shall be Constructor's Representative. Constructor shall report promptly in writing to Owner all recordable accidents and injuries occurring at the Worksite. When Constructor is required to file an accident report with a public authority, Constructor shall furnish a copy of the report to Owner.



3.11.4 Constructor shall provide Owner with copies of all notices required of Constructor by law or regulation. Constructor's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.

3.11.5 Damage or loss not insured under property insurance which may arise from the Work, to the extent caused by the negligent acts or omissions of Constructor, or anyone for whose acts Constructor may be liable, shall be promptly remedied by Constructor.

3.11.6 If Owner deems any part of the Work or Worksite unsafe, Owner, without assuming responsibility for Constructor's safety program, may require Constructor to stop performance of the Work or take corrective measures satisfactory to Owner, or both. If Constructor does not adopt corrective measures, Owner may perform them and deduct their cost from the Contract Price. Constructor agrees to make no claim for damages, for an increase in the Contract Price or for a change in the Contract Time based on Constructor's compliance with Owner's reasonable request.

3.12 EMERGENCIES

3.12.1 In an emergency affecting the safety of persons or property, Constructor shall act in a reasonable manner to prevent threatened damage, injury, or loss. Any change in the Contract Price or Contract Time resulting from the actions of Constructor in an emergency situation shall be determined as provided for in ARTICLE 8.

3.13 HAZARDOUS MATERIALS

3.13.1 Constructor shall not be obligated to commence or continue work until any Hazardous Material discovered at the Worksite has been removed, rendered, or determined to be harmless by Owner as certified by an independent testing laboratory and approved by the appropriate governmental agency.

3.13.2 If after commencing the Work, Hazardous Material is discovered at the Worksite, Constructor shall be entitled to immediately stop Work in the affected area. Constructor shall promptly report the condition to Owner, Design Professional, and, if required, the governmental agency with jurisdiction.

3.13.3 Constructor shall not be required to perform any Work relating to or in the area of Hazardous Material without written mutual agreement.

3.13.4 Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Work. Constructor shall resume Work in the area affected by any Hazardous Material only upon written agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

3.13.5 If Constructor incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, Constructor shall be entitled to an equitable adjustment in the Contract Price or the Contract Time.

3.13.6 To the extent permitted by applicable Laws, section 6.6, and to the extent not caused by the negligent acts or omissions of Constructor, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, Owner shall defend, indemnify, and hold harmless Constructor, its Subcontractors and Subsubcontractors, and the agents, officers,



directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution process, arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

3.13.7 MATERIALS BROUGHT TO THE WORKSITE

3.13.7.1 Safety Data Sheets (SDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Constructor, Subcontractors, Owner, or Others, shall be maintained at the Worksite by Constructor and made available to Owner, Subcontractors, and Others.

3.13.7.2 Constructor shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Constructor in accordance with the Contract Documents and used or consumed in the performance of the Work.

3.13.7.3 To the extent caused by the negligent acts or omissions of Constructor, its agents, officers, directors, and employees, Constructor shall indemnify and hold harmless Owner, its agents, officers, directors, and employees, from and against any and all claims, damages, losses, costs, and expenses, including but not limited to attorneys' fees, costs, and expenses incurred in connection with any dispute resolution procedure, arising out of or relating to the delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Constructor in accordance with the Contract Documents.

3.13.8 This section 3.13 shall survive the completion of the Work or any termination of this Agreement.

3.14 SUBMITTALS

3.14.1 Constructor shall submit to Owner and Design Professional all shop drawings, samples, product data, and similar submittals required by the Contract Documents for review and approval. Submittals shall be submitted in electronic form if required in accordance with ConsensusDocs 200.2 and subsection 4.6.1. Constructor shall be responsible for the accuracy and conformity of its submittals to the Contract Documents. At no additional cost, Constructor shall prepare and deliver its submittals in a manner consistent with the Schedule of the Work and in such time and sequence so as not to delay the performance of the Work or the work of Owner and Others. Constructor submittals shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The approval of any Constructor submittal shall not be deemed to authorize changes, deviations, or substitutions from the requirements of the Contract Documents unless express written approval is obtained from Owner specifically authorizing such deviation, substitution, or change. To the extent a change, deviation, or substitution causes an impact to the Contract Price or Contract Time, such approval shall be promptly memorialized in a Change Order. Neither Design Professional nor Owner shall make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to Constructor. If the Contract Documents do not contain submittal requirements pertaining to the Work, Constructor agrees upon request to submit in a timely fashion to Design Professional and Owner for review any shop drawings, samples, product data, manufacturers' literature or similar submittals as may reasonably be required by Owner.

3.14.2 Owner shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay.



3.14.3 Constructor shall perform all Work strictly in accordance with approved submittals. Approval of shop drawings is not an authorization to perform changed work, unless the procedures of ARTICLE 8 are followed. Approval does not relieve Constructor from responsibility for Defective Work resulting from errors or omissions on the approved shop drawings.

3.14.4 Record copies of the following, incorporating field changes and selections made during construction, shall be maintained at the Worksite and available to Owner upon request: drawings, specifications, addenda, Change Order and other modifications, and required submittals including product data, samples, and shop drawings.

3.15 SUBSTITUTIONS No substitutions shall be made in the Work unless permitted in the Contract Documents and then only after Constructor obtains approvals required under the Contract Documents for substitutions. No later than seven (7) Days following approval by Owner and, if applicable, Design Professional, substitutions shall be promptly memorialized in a Change Order, and if applicable, provide for an adjustment in the Contract Price or Contract Time.

3.16 AS-BUILTS Constructor shall prepare and submit to Owner

X final marked-up as-built drawings; r

☐ updated electronic data, in accordance with ConsensusDocs 200.2 and subsection 4.6.1; or
☐ such documentation as defined by the Parties by attachment to this Agreement, in general documenting how the various elements of the Work were actually constructed or installed.

3.17 DESIGN DELEGATION If the Contract Documents specifically require Constructor to procure design services, Owner shall specify all required performance and design criteria. Constructor shall not be responsible for the adequacy of such performance and design criteria. As permitted by the laws, rules, and regulations in the jurisdiction where the Project is located, Constructor shall procure such services and any certifications necessary to satisfactorily complete the Work from a licensed design professional. The signature and seal of Constructor's design professional shall appear on all drawings, calculations, specifications, certifications, shop drawings, and other submittals related to the Work designed or certified by Constructor's design professional.

3.18 PERMITS AND TAXES

3.18.1 Constructor shall give public authorities all notices required by law and, except for permits and fees that are the responsibility of Owner, shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. Constructor shall provide to Owner copies of all notices, permits, licenses, and renewals required under this Agreement.

3.18.2 Constructor shall pay all applicable taxes enacted when bids are received or negotiations concluded for the Work provided by Constructor, provided, Constructor will notify Owner of any purchases exceeding five hundred dollars (\$500) to enable Owner of claim appropriate sales tax exemptions.

3.18.3 If, in accordance with Owner's direction, Constructor claims an exemption for taxes, Owner shall indemnify and hold Constructor harmless from any liability, penalty, interest, fine, tax assessment, attorneys' fees, or other expense or cost incurred by Constructor as a result of any such action.

3.19 CUTTING, FITTING, AND PATCHING



3.19.1 Constructor shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of Owner or Others.

3.19.2 Cutting, patching, or altering the work of Owner or Others shall be done with the prior written approval of Owner. Such approval shall not be unreasonably withheld.

3.20 CLEANING UP

3.20.1 Constructor shall regularly remove debris and waste materials at the Worksite resulting from the Work. Prior to discontinuing Work in an area, Constructor shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. Constructor shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Constructor shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

3.20.2 If Constructor fails to commence compliance with cleanup duties within two (2) Business Days after written notification from Owner of non-compliance, Owner may implement appropriate cleanup measures without further notice and shall deduct the reasonable costs from any amounts due or to become due Constructor in the next payment period.

3.21 ACCESS TO WORK Constructor shall facilitate the access of Owner, Design Professional, and Others to Work in progress.

3.22 TRAFFIC AND PUBLIC CONVENIENCE Constructor shall notify the proper authorities at least 3 Business Day(s) in advance of starting work on a traveled street, and comply with the directives of such authorities regarding traffic control. Constructor shall not obstruct access to fire hydrants and service valves, nor to U.S. mailboxes. Constructor shall repair and restore to service any utility service facilities damaged by Constructor's operations, and shall cooperate with utility companies in the restoration of their service.

3.22.1

3.23 COMPLIANCE WITH LAWS Constructor shall comply with all Laws at its own costs. Constructor shall be liable to Owner for all loss, cost, or expense attributable to any acts or omissions by Constructor, its employees, subcontractors, and agents for failure to comply with Laws, including fines, penalties, or corrective measures. However, liability under this subsection shall not apply if notice to Owner was given, and advance approval by appropriate authorities, including Owner, is received.

3.23.1 The Contract Price or Contract Time shall be equitably adjusted by Change Order for additional costs resulting from any changes in Laws, including increased taxes, which were not reasonably anticipated and then enacted after the date of this Agreement.

3.24 CONFIDENTIALITY Unless required by Chapter 119, Florida Statutes, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena, Constructor shall treat as confidential and not disclose to third-persons, except Subcontractors, Subsubcontractors, and Suppliers as is necessary for the performance of the Work, or use for its own benefit, any of Owner's confidential information, know-how, discoveries, production methods, and the like that may be disclosed to Constructor or which Constructor may acquire in connection with the Work. When marked as "Confidential," Owner shall treat as confidential information all of Constructor's estimating systems and historical and parameter cost data that may be disclosed to Owner in connection with the performance of this Agreement. The Parties shall each specify those items to be treated as confidential and shall mark them as "Confidential." If a Party is legally compelled or there is an order seeking disclosure of any



Confidential Information, Constructor or Owner shall promptly notify the other Party to permit that Party's legal objection.

ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES Owner's responsibilities under this article shall be fulfilled with reasonable detail and in a timely manner.

4.2 FINANCIAL INFORMATION Before commencing the Work and thereafter, at the written request of Constructor, Owner shall provide Constructor with evidence of Project financing, including information showing the actual amounts immediately available pursuant to a loan, grant, appropriation or fund for payments anticipated to become due to Constructor under this Agreement and the extent to which any such loan, grant, appropriation, or fund is subject to sequester or other conditions for release of funds. Evidence that sufficient funds are available for expenditure is a condition precedent to Constructor's commencing and continuing the Work. Constructor may terminate this Agreement pursuant to section 11.5. Owner shall also provide Constructor with information sufficient to determine applicability of rights for stop notices, bond claims (lien rights, if applicable), or other rights securing payment, and with all information necessary to give notice of and to enforce such rights, within seven (7) Days after Constructor's request in writing.

4.3 WORKSITE INFORMATION To the extent Owner has obtained, or is required elsewhere in the Contract Documents to obtain, the following Worksite information and to the extent same is available to Owner, Owner shall provide at Owner's expense and with reasonable promptness:

4.3.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data, or drawings depicting existing conditions, subsurface conditions, and environmental studies, reports, and investigations. Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction and all other pertinent Worksite conditions. Adjacent property descriptions shall include structures, streets, sidewalks, alleys, and other features relevant to the Work. Utility details shall include available services, lines at the Worksite and adjacent thereto, and connection points. The information shall include public and private information, subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used by Constructor in laying out the Work;

4.3.2 tests, inspections, and other reports dealing with environmental matters, Hazardous Material and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or by Law; and

4.3.3 any other information or services requested in writing by Constructor which are required for Constructor's performance of the Work and under Owner's control.

4.4 CONCEALED OR UNKNOWN SITE CONDITIONS If the conditions encountered at the Worksite are (a) subsurface or other physical conditions materially different from those indicated in the Contract Documents or any Worksite information provided in accordance with this ARTICLE 4, or (b) unusual and unknown physical conditions materially different from conditions ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract Documents, Constructor shall stop affected Work after the condition is first observed and give prompt written notice of the condition to Owner and Design Professional. Within a reasonable time after receiving notice, Owner will direct Constructor how to proceed. If Owner acknowledges that Constructor has encountered an unknown condition, Constructor shall not be required to perform any Work relating to the unknown condition without the written mutual agreement of the Parties or an interim change directive. Any change in the Contract Price or the Contract Time as a result of the unknown condition shall be determined as provided in ARTICLE 8.



If Owner denies the existence of an unknown condition, Constructor may seek recourse in accordance with ARTICLE 12.

4.5 BUILDING PERMIT, FEES, AND APPROVALS Owner will pay fees for the building permit and will pay any impact fees. Constructor shall secure the building permit. Constructor shall secure and pay for all other permits, approvals, assessments, utility connections for permanent service, and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

4.6 CONTRACT DOCUMENTS Unless otherwise specified, Owner shall provide One (1) hard copies of the Contract Documents to Constructor without cost.

4.6.1 DOCUMENTS IN ELECTRONIC FORM If Owner requires that Owner, Design Professional, and Constructor exchange documents and data in electronic or digital form, prior to any such exchange, Owner, Design Professional and Constructor shall agree on a written protocol governing all exchanges in ConsensusDocs 200.2 or a separate addenda, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. Except as otherwise agreed to by the Parties in writing, the Parties shall each bear their own costs as identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient. The Constructor will use and provided ProCore as a project management software, granting access to AMCD staff representatives, the architect, and engineers to manage all drawings/specifications, RFI, submittals, and other essential project documents it deems necessary to manage project information.

OWNER'S REPRESENTATIVE Owner's Representative is

Richard Weaver

Anastasia Mosquito Control District

120 EOC Drive

St. Augustine FL 32092

All government correspondence is subject to the public records law

Direct line: 904-484-7333

Main line: 904-471-3107 ex 333

Email: rweaver@amcdfi.org

4.7 X. Owner's Representative shall be fully acquainted with the Project, and shall have authority to bind Owner in all matters requiring Owner's approval, authorization, or written notice. If Owner changes its Representative or its Representative's authority, Owner shall immediately notify Constructor in writing.

4.8 OWNER'S CUTTING AND PATCHING Cutting, patching, or altering the Work by Owner or Others shall be done with the prior written approval of Constructor, which approval shall not be unreasonably withheld.

4.9 OWNER'S RIGHT TO CLEAN UP In case of a dispute between Constructor and Others with regard to respective responsibilities for cleaning up at the Worksite, Owner may implement appropriate cleanup



measures after two (2) Business Days' notice and allocate the cost among those responsible during the following pay period.

4.10 COST OF CORRECTING DAMAGED OR DESTROYED WORK With regard to damage or loss attributable to the acts or omissions of Owner or Others and not to Constructor, Owner may either (1) promptly remedy the damage or loss or (2) accept the damage or loss. If Constructor incurs additional costs or is delayed due to such loss or damage, Constructor shall be entitled to an equitable adjustment in the Contract Price or Contract Time.

ARTICLE 5 SUBCONTRACTS

5.1 SUBCONTRACTORS The Work not performed by Constructor with its own forces shall be performed by Subcontractors.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Promptly after the award of this Agreement, Constructor shall provide Owner and, if directed, Design Professional with a written list of the proposed Subcontractors and significant Suppliers. If Owner has a reasonable objection to any proposed Subcontractor or Supplier, Owner shall notify Constructor in writing. Failure to promptly object shall constitute acceptance.

5.2.2 If Owner has reasonably and promptly objected, Constructor shall not contract with the proposed Subcontractor or Supplier, and Constructor shall propose another acceptable Subcontractor or Supplier to Owner. An appropriate Change Order shall reflect any increase or decrease in the Contract Price or Contract Time because of the substitution.

5.3 BINDING OF SUBCONTRACTORS AND SUPPLIERS Constructor agrees to bind every Subcontractor and Supplier (and require every Subcontractor to so bind its subcontractors and suppliers) to all the provisions of this Agreement and the Contract Documents as they apply to the Subcontractor's or Supplier's portions of the Work.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.4.1 If this Agreement is terminated, each subcontract and supply agreement shall be assigned by Constructor to Owner, subject to the prior rights of any surety, provided that:

5.4.1.1 this Agreement is terminated by Owner pursuant to sections 11.3 or 11.4; and

5.4.1.2 Owner accepts such assignment after termination by notifying the Subcontractor and Constructor in writing, and assumes all rights and obligations of Constructor pursuant to each subcontract agreement.

5.4.2 If Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, the Subcontractor's compensation shall be equitably adjusted as a result of the suspension.

ARTICLE 6 TIME

6.1 DATE OF COMMENCEMENT The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below: See 6.1.1 through 6.1.3.



6.1.1 SUBSTANTIAL/FINAL COMPLETION Substantial Completion of the Work shall be achieved in Three hundred Sixty-Five (365) Days from the Date of Commencement. The Date of Commencement is defined by all of the following items:

6.1.1.1 Building Permit issued by the Jurisdictions

6.1.1.2 Approval by Owner of the Pre Engineered Metal Building.

6.1.1.3 Notice to Proceed, issued by the Owner representative, representing sufficient funds to complete the project

Unless otherwise specified in the Certificate of Substantial Completion, Constructor shall achieve Final Completion within Thirty (30) Days after the date of Substantial Completion. The deadlines for Substantial and Final Completion are subject to adjustments as provided for in the Contract Documents.

6.1.2 Time is of the essence for this Agreement and the Contract Documents.

6.1.3 Unless instructed by Owner in writing, Constructor shall not knowingly commence the Work before the effective date of insurance to be provided by Constructor or Owner as required by the Contract Documents.

6.2 SCHEDULE OF THE WORK

6.2.1 Before submitting the first application for payment, Constructor shall submit to Owner, and if directed, to Design Professional, a Schedule of the Work showing the dates on which Constructor plans to commence and complete various parts of the Work, including dates on which information and approvals are required from Owner. Constructor shall comply with the approved Schedule of the Work, unless directed by Owner to do otherwise or Constructor is otherwise entitled to an adjustment in the Contract Time. Constructor shall update the Schedule of the Work on a monthly basis or at appropriate intervals as required by the conditions of the Work and the Project.

6.2.2 Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the Schedule of the Work. Owner may require Constructor to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by Owner or Others. To the extent such changes increase Constructor's costs or time, the Contract Price and Contract Time shall be equitably adjusted.

6.3 DELAYS AND EXTENSIONS OF TIME

6.3.1 If Constructor is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Constructor, Constructor shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of Constructor include, but are not limited to, the following: (a) acts or omissions of Owner, Design Professional, or Others; (b) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by Owner pending dispute resolution or suspension by Owner under section 11.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving Constructor; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions; (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated. Constructor shall submit any requests for equitable extensions of Contract Time in accordance with ARTICLE 8.



6.3.2 In addition, if Constructor incurs additional costs as a result of a delay that is caused by items (a) through (d) immediately above, Constructor shall be entitled to an equitable adjustment in the Contract Price subject to section 6.6.

6.3.3 NOTICE OF DELAYS If delays to the Work are encountered for any reason, Constructor shall provide prompt written notice to Owner of the cause of such delays after Constructor first recognizes the delay. Owner and Constructor agree to take reasonable steps to mitigate the effect of such delays.

6.4 NOTICE OF DELAY CLAIMS If Constructor requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay described in the section above, Constructor shall give Owner written notice of the claim in accordance with section 8.4. If Constructor causes delay in the completion of the Work, Owner shall be entitled to recover its additional costs subject to section 6.6. Owner shall process any such claim against Constructor in accordance with ARTICLE 8.

6.5 LIQUIDATED DAMAGES

6.5.1 SUBSTANTIAL COMPLETION The Parties agree that this Agreement XX shall/ [] shall not provide for the imposition of liquidated damages based on the Date of Substantial Completion.

6.5.1.1 Liquidated Damages. Constructor understands that if the Date of Substantial Completion established by this Agreement, as may be amended by subsequent Change Order, is not attained, Owner will suffer damages which are difficult to determine and accurately specify. Constructor agrees that if the Date of Substantial Completion is not attained, Constructor shall pay Owner One Thousand dollars (\$1,000) as liquidated damages and not as a penalty for each month that Substantial Completion extends beyond the Date of Substantial Completion. The liquidated damages provided herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages of whatsoever nature incurred by Owner which are occasioned by any delay in achieving the Date of Substantial Completion.

6.5.1.2 **Early Completion Bonus.** If Substantial Completion is attained on or before the Scheduled Substantial Completion Date (the Bonus Date), Owner shall pay Design-Builder at the time of Final Payment under Section 7.3 hereof an early completion bonus of **One Thousand Dollars (\$ 1000)** for each month that Substantial Completion is attained earlier than the Bonus Date

6.5.2 FINAL COMPLETION Owner and Constructor agree that this Agreement [] shall/ X shall not provide for the imposition of liquidated damages based on the Date of Final Completion.

6.5.2.1

6.5.3

6.6 LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for damages mutually agreed upon by the Parties as liquidated damages in section 6.5 and excluding losses covered by insurance required by the Contract Documents, Owner and Constructor agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. Owner agrees to waive damages, including but not limited to Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit, or financing related to the Project, as well as the loss of business, loss of financing, loss of profits not related to this Project, loss of reputation, or insolvency. Constructor agrees to waive damages, including but not limited to loss of business, loss of financing, loss



of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. The following are excluded from this mutual waiver: NA.

6.6.1 Owner and Constructor shall require similar waivers in contracts with Subcontractors and Others retained for the Project.

ARTICLE 7 PRICE

7.1 LUMP SUM A lump sum payment X Shall [_____] Shall not be used as full compensation for performance of the Work in conformance with the Contract Documents. If a lump sum payment is chosen, then Owner shall pay Constructor the lump sum price of Two Million Four Hundred Sixty Nine Thousand, Three Hundred Fifty Five dollars (\$2,469,355.00). This sum will be paid through incremental progress payments by Owner as provided in ARTICLE 9. The lump sum price is hereinafter referred to as the Contract Price, which shall be subject to increase or decrease as provided in ARTICLE 8.

7.2 UNIT PRICE Unit price [_____] Shall X Shall not be used.

If unit price shall be used, then payment for all items will be on a unit price basis, unless listed otherwise in the Bid Form. The unit price and payment made for each item listed shall constitute full compensation for furnishing all plant, labor, materials, and equipment, and performing any associated Constructor quality control, environmental protection, meeting safety requirements, tests and reports, and for performing all Work required for each of the unit price items. Contract unit price multiplied by agreed quantity is full compensation and includes Overhead, field overhead, and profit. The sum of the unit prices times the contract quantities plus the sum of non-unit price items shall mean "Contract Price." The Contract Price shall be subject to increase or decrease based upon the actually accepted quantities performed times the current contract unit prices and as provided in ARTICLE 8.

7.3 ALLOWANCES

7.3.1 All allowances stated in the Contract Documents shall be included in the Contract Price. While Owner may direct the amounts of, and particular Suppliers or subcontractors for specific allowance items, if Constructor reasonably objects to a material supplier or subcontractor, it shall not be required to contract with them. Owner shall select allowance items in a timely manner so as not to delay the Work.

7.3.2 Allowances shall include the costs of materials, supplies, and equipment delivered to the Worksite, less applicable trade discounts and including requisite taxes, unloading and handling at the Worksite, and labor and installation, unless specifically stated otherwise. Constructor's Overhead and profit for the allowances shall be included in the Contract Price, but not in the allowances. The Contract Price shall be adjusted by Change Order to reflect the actual costs when they are greater than or less than the allowances.

ARTICLE 8 CHANGES

Changes in the Work that are within the general scope of this Agreement shall be accomplished, without invalidating this Agreement, by Change Order and Interim Directed Change.

8.1 CHANGE ORDER

8.1.1 Constructor may request or Owner may order changes in the Work or the timing or sequencing of the Work that impact the Contract Price or the Contract Time. All such changes in



the Work that affect Contract Time or Contract Price shall be formalized in a Change Order and executed in accordance with this article.

8.1.2 For changes in the Work, Owner and Constructor shall negotiate an appropriate adjustment to the Contract Price or the Contract Time in good faith and conclude negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the Contract Price or Contract Time shall not be unreasonably withheld.

8.1.3 NO OBLIGATION TO PERFORM Constructor shall not be obligated to perform changes in the Work that impact Contract Price or Contract Time until a Change Order has been executed or a written Interim Directed Change has been issued.

8.2 INTERIM DIRECTED CHANGE

8.2.1 Owner may issue a written Interim Directed Change directing a change in the Work prior to reaching agreement with Constructor on the adjustment, if any, in the Contract Price or the Contract Time.

8.2.2 Owner and Constructor shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the Contract Price or the Contract Time arising out of an Interim Directed Change. As the changed Work is performed, Constructor shall submit its costs for such Work with its application for payment beginning with the next application for payment within thirty (30) Days of the issuance of the Interim Directed Change. If there is a dispute as to the cost to Owner, Owner shall pay Constructor fifty percent (50%) of its estimated cost to perform such Work. In such event, the Parties reserve their rights as to the disputed amount, subject to the requirements of ARTICLE 12.

8.2.3 When Owner and Constructor agree upon the adjustment in the Contract Price or the Contract Time, for a change in the Work directed by an Interim Directed Change, such agreement shall be the subject of a Change Order. The Change Order shall include all outstanding Interim Directed Changes on which Owner and Constructor have reached agreement on Contract Price or Contract Time issued since the last Change Order.

8.3 DETERMINATION OF COST

8.3.1 An increase or decrease in the Contract Price or the Contract Time resulting from a change in the Work shall be determined by one or more of the following methods:

8.3.1.1 unit prices set forth in this Agreement or as subsequently agreed;

8.3.1.2 a mutually accepted, itemized lump sum;

8.3.1.3 COST OF THE WORK Cost of the Work as defined by this subsection plus Five percent ([5]%) for Overhead and Five percent ([5]%) for profit. "Cost of the Work" shall include the following costs reasonably incurred to perform a change in the Work:

8.3.1.3.1 wages paid for labor in the direct employ of Constructor in the performance of the Work;

8.3.1.3.2 salaries of Constructor's employees when stationed at the field office to the extent necessary to complete the applicable Work, employees engaged on the road expediting the production or transportation of material and equipment, and supervisory employees from the principal or branch office performing the functions



listed below: Project Management Team Listed and provided as a daily rate for the duration of the work. The actual function performed by the employee rather than the payroll title will be the criterion used in determining the eligibility of an employee's services for payment under this provision;

8.3.1.3.3 Greg Bowles, PM

8.3.1.3.4 Tamra Krueger PMA

8.3.1.3.5 Grayson Mathewson QC

8.3.1.3.6 cost of applicable employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Constructor's standard personnel policy, insofar as such costs are paid to employees of Constructor who are included in the Cost of the Work in the two subsections immediately above; Project Management Team Listed and provided as a daily rate for the duration of the work.

8.3.1.3.7 reasonable transportation, travel, and hotel expenses of Constructor's personnel incurred in connection with the Work;

8.3.1.3.8 cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by Owner, transportation, storage, and handling;

8.3.1.3.9 payments made by Constructor to Subcontractors for Work performed under this Agreement;

8.3.1.3.10 cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value of such items used, but not consumed that remain the property of Constructor;

8.3.1.3.11 rental charges of necessary machinery and equipment, exclusive of hand tools owned by workers and small tools having a replacement value of \$500.00 each or less, used at the Worksite, whether rented from Constructor or Others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from Constructor or its affiliates, subsidiaries, or related parties shall be reimbursed at the prevailing rates in the locality which may be based on the Rental Rate Blue Book monthly rates adjusted for applicable location of the project and pro-rated to the applicable hour, day, or week of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment. Rental time will not be allowed while equipment is inoperative due to breakdowns. In computing the hourly rental of such equipment, less than 30 minutes shall be considered one-half hour, except that the minimum rental time to be paid shall be one hour. The rental equipment time shall be the time the equipment is in operation for calculating Cost of the Work, and in addition, shall include the time required to move the equipment to perform the Work and return it to its original location. When approved in advance by Owner, towing or transporting costs will be allowed when the equipment is moved by means other than its own power.



8.3.1.3.12 cost of the premiums for all insurance and surety bonds which Constructor is required to procure or deems necessary, and approved by Owner including any additional premium incurred as a result of any increase in the cost of the Work;

8.3.1.3.13 sales, use, gross receipts or other taxes, tariffs, or duties related to the Work for which Constructor is liable;

8.3.1.3.14 permits, fees, licenses, tests, and royalties;

8.3.1.3.15 reproduction costs, photographs, facsimile transmissions, long-distance telephone calls, data processing costs and services, postage, express delivery charges, data transmission, telephone service, and computer-related costs at the Worksite to the extent such items are used and consumed in the performance of the Work or are not capable of use after completion of the Work;

8.3.1.3.16 all water, power, and fuel costs necessary for the Work;

8.3.1.3.17 cost of removal of all nonhazardous substances, debris, and waste materials;

8.3.1.3.18 all costs directly incurred to perform a change in the Work which are reasonably inferable from the Contract Documents for the Changed Work;

8.3.1.3.19 DISCOUNTS All discounts for prompt payment shall accrue to Owner to the extent such payments are made directly by Owner. To the extent payments are made with funds of Constructor, all cash discounts shall accrue to Constructor, not including rebates or exclusions of sales taxes from purchases made by Constructor in excess of \$500, which shall be credited to Owner. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work;

8.3.1.3.20 COST REPORTING Constructor shall maintain in conformance with generally accepted accounting principles a complete and current set of records that are prepared or used by Constructor to calculate the Cost of Work. Owner shall be afforded access to Constructor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to requested payment for Cost of the Work. Except as required by Chapter 119, Florida Statutes, Constructor shall preserve all such records for a period of three (3) years after the final payment or longer where required by law;

8.3.1.3.21 COST AND SCHEDULE ESTIMATES Constructor shall use reasonable skill and judgment in the preparation of a cost estimate or schedule for a change to the Work, but does not warrant or guarantee their accuracy.

8.3.1.4 If an increase or decrease in the Contract Price or Contract Time cannot be agreed to as set forth in subsection 8.3.1, and Owner issues an Interim Directed Change, the cost of the change in the Work shall be determined by the reasonable actual expense incurred and savings realized in the performance of the Work resulting from the change. If there is a net increase in the Contract Price, Constructor's Overhead and profit shall be adjusted accordingly. In case of a net decrease in the Contract Price, Constructor's Overhead and profit shall not be adjusted unless ten percent (10%) or more of the Project is deleted.

